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No. 46 | NEW DELHI, NOVEMBER 6—NOVEMBER 12, 2005, SATURDAY/KARTIKA 15—KARTIKA 21, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पुश्तक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 31 अक्टूबर, 2005

(आयकर)

का. आ. 4149.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उप-खंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "वोलंटरी हेल्थ एसोसिएशन ऑफ इंडिया, नई दिल्ली" को कर निर्धारण वर्ष 2001-2002 से 2003-2004 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप-खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;

- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक दृंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वेच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करेगा;

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों;

- (iv) कर निर्धारिती आय कर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आय कर प्राधिकारी के समक्ष फाइल करेगा;

- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले संगठन को दे दी जाएंगी।

[अधिसूचना सं. 219/2005/फा. सं. 197/77/2005-आयकर नि.-I]

दीपक गर्ग, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 31st October, 2005

(INCOME TAX)

S.O. 4149 .—In exercise of the powers conferred by the sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Voluntary Health Association of India, New Delhi" for the purpose of the said sub-clause for the assessment year 2001-02 to 2003-04 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus, and the assets will be given to an organisation with similar objectives.

[Notification No. 219/2005/F. No. 197/77/2005-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 31 अक्टूबर, 2005

(आयकर)

का. आ. 4150 .—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उप-खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "चीफ खालसा दीवान, अमृतसर, पंजाब" को कर निर्धारण वर्ष 2003-2004 से 2005-2006 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप-खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आय कर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले संगठन को दे दी जाएंगी।

[अधिसूचना सं. 218/2005/फा. सं. 197/92/2004-आयकर नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 31st October, 2005

(INCOME TAX)

S.O. 4150 .—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Chief Khalsa Diwan, Amritsar,

Punjab" for the purpose of the said sub-clause for the assessment year 2003-04 to 2005-06 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus, and the assets will be given to an organisation with similar objectives.

[Notification No. 218/2005/F. No. 197/92/2004-ITA-
II/DEEPAK GARG, Under Secy.

(आर्थिक कार्य विभाग)

(बीमा प्रभाग)

नई दिल्ली, 3 नवम्बर, 2005

का. आ. 4151.—केन्द्रीय सरकार, भारतीय जीवन बीमा नियम वर्ग 3 और 4 कर्मचारी (सेवा के निबंधन और शर्तों का पुनरीक्षण) नियम, 1985 के नियम 13 के उप नियम (2) द्वारा भ्रष्ट शक्तियों का प्रयोग करते हुए यह निर्धारित करती है कि वर्ग 3 और 4 के प्रत्येक कर्मचारी को 01 अप्रैल, 2004 को आरंभ होने वाली और 31 मार्च, 2005 को समाप्त होने वाली अवधि के लिए बोनस के बदले में

संदाय, उक्त उप नियम में अन्य उपबंधों के अधीन रखते हुए उसके संबलम के 15 प्रतिशत की दर पर किया जाएगा।

[फा. सं. 2 (15)96/बीमा. III]

एम. वेंकटेश्वरलू, अवर सचिव

(Department of Economic Affairs)

(INSURANCE DIVISION)

New Delhi, the 3rd November, 2005

S.O. 4151.—In exercise of the powers conferred by sub-rule (2) of Rule 13 of the life Insurance Corporation of India Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985, the Central Government hereby determine that, subject to the other provisions of the said sub-rule, the payment in lieu of bonus for the period commencing on 1st day of April, 2004 and ending with 31st March, 2005 to every Class III and Class IV employee shall be at the rate of 15 per cent of his/her salary.

[F. No. 2(15)96/Ins. III]

M. VENKATESWARLU, Under Secy.

संस्कृति मंत्रालय

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4152.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम-4 के अनुसरण में संस्कृति मंत्रालय के अधीन निम्नलिखित कार्यालय जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

अधीक्षक पुरातत्त्वविद्,
भारतीय पुरातत्व सर्वेक्षण,
मंदिर सर्वेक्षण परियोजना (उत्तरी क्षेत्र),
भोपाल-462011 (मध्य प्रदेश)।

[फा. सं. 1-1/2005-हिन्दी]

मोहिनी हिंगोरानी, निदेशक (रा.भा.)

MINISTRY OF CULTURE

New Delhi, the 24th October, 2005

S.O. 4152.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for Official purpose of the Union) Rules 1976, the Central Government hereby notifies the following office under the Ministry of Culture, more

than 80% staff of which have acquired a working knowledge of Hindi.

Superintending Archaeologist,
Archaeological Survey of India,
Temple Survey Project (N.R.),
Bhopal, 462011 (M.P.)

[F. No. 1-1/2005-Hindi]

MOHINI HINGORANI, Director (OL)

कृषि मंत्रालय

(कृषि अनुसंधान एवं शिक्षा विभाग)

नई दिल्ली, 3 नवम्बर, 2005

का. आ. 4153.—सिगरेट एवं अन्य तम्बाकू उत्पाद (विज्ञापन निषेध एवं व्यापार तथा वाणिज्य उत्पादन आपूर्ति तथा वितरण विनियमन) अधिनियम] 2003 की धारा 25 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, कृषि अनुसंधान एवं शिक्षा विभाग में एतद्वारा नीचे दी गई तालिका के कालम 3 में निर्दिष्ट अधिकारियों को प्राधिकृत करती है, जो उक्त अधिनियम की धारा 4 के तहत कार्यवाही करने हेतु सक्षम प्राधिकारी होंगे।

क्र.सं.	कार्यालय	प्राधिकृत व्यक्ति
(1)	(2)	(3)
1.	कृषि अनुसंधान एवं शिक्षा विभाग	उप-सचिव (स्थापना)
2.	कृषि अनुसंधान एवं शिक्षा विभाग के अधीन कार्य कर रहे स्वायत्त निकाय/सांविधिक निकाय/परिपद	प्रशासनिक अधिकारी

यह अधिसूचना भारत के गजट में इसके प्रकाशित होने की तारीख से लागू होगी।

[फा. सं. 30/46/2005-स्थापना]

राम अवतार, उप-सचिव

MINISTRY OF AGRICULTURE

(Department of Agricultural Research and Education)

New Delhi, the 3rd November, 2005

S.O. 4153.—In exercise of the powers conferred by Section 25 of "The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003", the Central Government in the Department of

Agricultural Research and Education hereby authorises the officers indicated in Column 3 of the Table given below who shall be competent to act under Section 4 of the said Act :—

S. No.	Office	Authorized Person
(1)	(2)	(3)
1.	Department of Agricultural Research and Education	Deputy Secretary (Estt.)
2.	Autonomous Bodies/ Statutory Bodies/ Councils functioning under the Department of Agricultural Research and Education.	Administrative Officer

This notification shall come into effect from the date of its publication in the Gazette of India.

[F. No./30-46/2005-Estt.]

RAM AUTAR, Dy. Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 27 अक्टूबर, 2005

का. आ. 4154.—इस मंत्रालय की दिनांक 30-8-2005 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्रकी (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्रकी अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्रीमती इंदिरा स्वरूप, डी-44, प्रेस एनक्लेव, साकेत, नई दिल्ली को तत्काल प्रभाव से दो वर्ष की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, दिल्ली सलाहकार पैनल की सदस्य के रूप में नियुक्त करती है।

[फा. सं. 809/7/2004-एफ (सी)]

पी. पी. नायर, डैस्क अधिकारी

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 27th October, 2005

S.O. 4154.—In continuation of this Ministry's Notification of even number dated 30th August, 2005 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Smt. Indira Swarup, D-44, Press Enclave, Saket, New Delhi as member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/7/2004-F(C)]

P. P. NAIR, Desk Officer

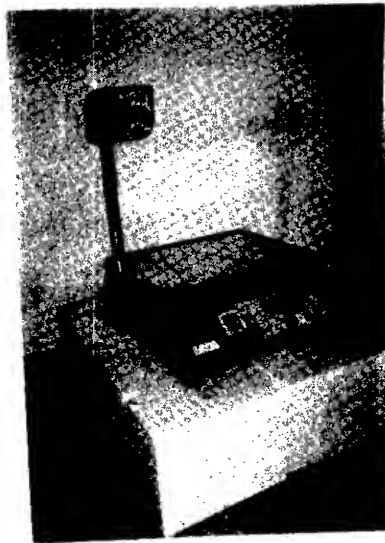
उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4155.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेकी इन्क, 230, प्रथम तल, छठी मुख्य, चतुर्थ स्तर, इंडस्ट्रियल टाउन, राजाजी नगर, बंगलौर-560044, कर्नाटक द्वारा निर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "आई-जेपी" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "ट्राइडेंट" है (जिसे उक्त मॉडल कहा गया है) और जिसे अनुमोदन किट आई एन डी/09/2005/468 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. है और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है। जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा पर कार्य करता है।

सीलबंद किया जाना : स्टॉपिंग प्लेट की सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्दी की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी धिनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक "ई" मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा० सं० डब्ल्यू एम-21 (58)/2005]

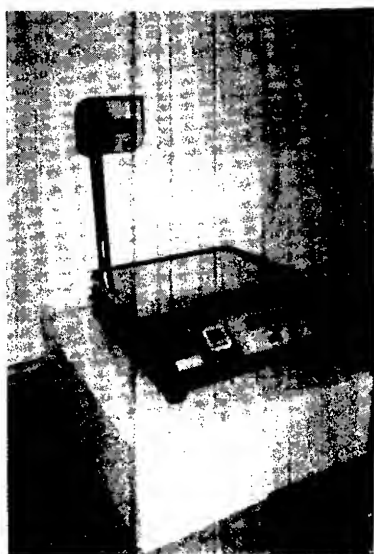
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)**

New Delhi, the 14th October, 2005

S.O. 4155.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing Instrument (Table top type) with digital indication of "BI-JP" series of high accuracy (Accuracy class-II) and with brand name "TRIDENT" (herein referred to as the said model), manufactured by M/s Benki Inc., # 230, 1st Floor, 6th Main, 4th Stage, Industrial Town, Rajaji Nagar, Bangalore-560044, Karnataka which is assigned the approval mark IND/09/2005/468;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50Hz. alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(58)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4156.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेकी इन्क, 230, प्रथम तल, छठी मुख्य, चतुर्थ स्तर, इंडस्ट्रियल टाऊन, राजाजी नगर, बंगलौर-560044, कर्नाटक द्वारा निर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "बीआई-पीपी" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "ट्राइडेंट" है (जिसे उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/469 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त माडल विकृति गेज प्रकार भार सेल आधारित अस्वाचालित (प्लेट फार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 600 कि.ग्रा. है और न्यूनतम क्षमता 2.5 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 50 ग्राम है। इसमें एक आधेयतुलन युक्ति है। जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा पर कार्य करता है।

सीलबंद किया जाना : स्टांपिंग प्लेट की सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्दी की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. या उससे अधिक "ई" मान के लिए 5000 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल सहित 50 कि.ग्रा. से अधिक और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा० सं० डब्ल्यू एम-21 (58)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 14th October, 2005

S.O. 4156.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing Instrument (Platform type) with digital indication of "BI-PP" series of high accuracy (Accuracy class-II) and with brand name "TRIDENT" (herein referred to as the said model), manufactured by M/s Benki Inc., # 230, 1st Floor, 6th Main, 4th Stage, Industrial Town, Rajaji Nagar, Bangalore-560044, Karnataka which is assigned the approval mark IND/09/2005/469:



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 600 kg. and minimum capacity of 2.5 kg. The verification scale interval (e) is 50g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz. alternative Current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and upto 1000 kg with verification scale interval(n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

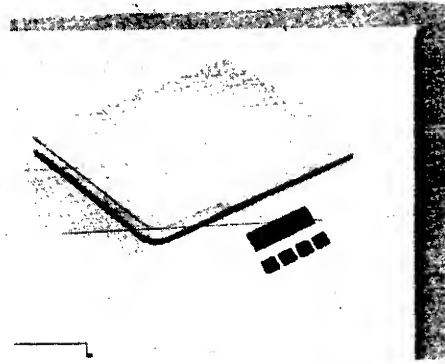
[F. No. WM-21(58)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4157.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कृश इलेक्ट्रॉनिक लिमिटेड, 210 ए, सेक्टर-ए, जोन बी, मंचेश्वर इंडस्ट्रियल एस्टेट, भुवनेश्वर-751010, उड़ीसा द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-III) वाले अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “के ई एल” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/673 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल (ऊपर दी गई आकृति देखें) विकृत गेज प्रकार का अस्वचालित भार सेल आधारित तोलन (प्लेट फार्म प्रकार) उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. है और न्यूनतम क्षमता 250 कि.ग्रा. है सत्यापन मापमान अन्तराल (ई) .5 ग्रा. है। इसमें एक आद्येतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आद्येतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। इसी उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 कि.ग्रा. तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित “ई” मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

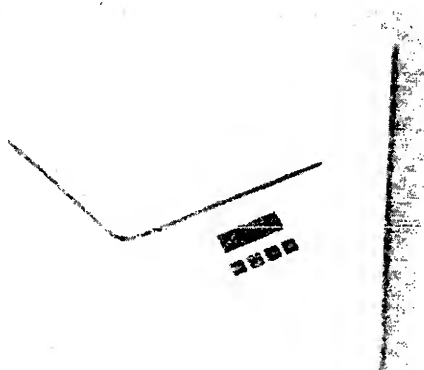
[फा० सं० डब्ल्यू एम-21 (99)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005.

S.O. 4157.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table Top type) with digital indication of medium accuracy (Accuracy class-III) and brand "KEL" (herein referred to as the said model), manufactured by M/s Krish Electronics Limited, 210, Sector-A, Zone B, Manchheswar Industrial Estate, Bhubnesliwar-751 010, Orissa and which is assigned the approval mark IND/09/05/673:



The said model (see the figure given above) is a strain gauge type load cell based weighing instrument with a maximum capacity of 30 kg. and minimum capacity of 250 kg. The verification scale interval (e) is 5g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts and, 50Hz. alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of same series with maximum capacity upto 50kg and with number of verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being of positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

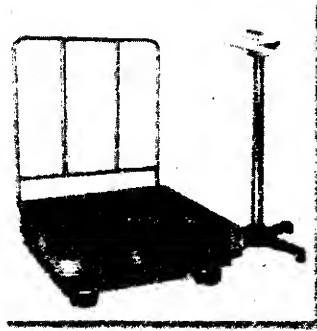
[F. No. WM-21(99)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4158.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स कृश इलेक्ट्रॉनिक लिमिटेड, 210 ए, सेक्टर-ए जोन बी, मंचेश्वर इंडस्ट्रियल एस्टेट, भुवनेश्वर-751 010, उड़ीसा द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "केईएल" शृंखला और ब्रांड के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/674 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल (ऊपर दी गई आकृति देखें) विकृत गेज प्रकार का अस्वचालित भार सेल आधारित (प्लेट फार्म प्रकार) उपकरण है। इसकी अधिकतम क्षमता 200 कि. ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 20 ग्रा. है। इसमें एक आघेयतुलन युक्ति है। जिराका शन प्रतिशत व्यवकलनात्मक धारित आघेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट ए सी, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्ट्रॉम्पिंग प्लेट को सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए भी सीलबन्द किया जाएगा।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक "ई" मान के लिए 500 से 10,000 कि. ग्राम तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 500 कि. ग्राम तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

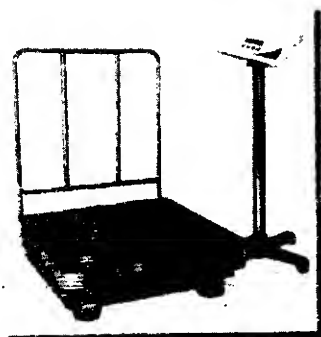
[फा० सं० डब्ल्यू एम-21 (99)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4158.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy class-III) and brand and series "KEL" (herein referred to as the said model), manufactured by M/s Krish Electronics Limited, 210A, Sector-A, Zone B, Mancheswar Industrial Estate, Bhubneshwar-751 010, Orissa and which is assigned the approval mark IND/09/05/674:



The said model (See the Figure given above) is a strain gauge type load cell based weighing instrument with a maximum capacity of 200 kg. and minimum capacity of 1 kg. The verification scale interval (e) is 20g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of same series, with maximum capacity above 50kg and up to 500 kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principles, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(99)/2004]

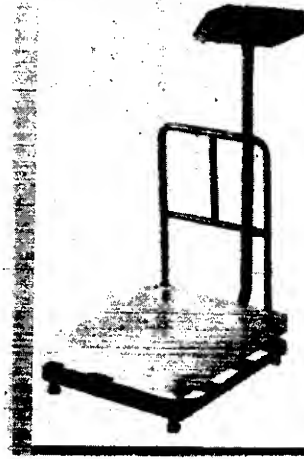
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4159.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथाथता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा:

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स कृश इलेक्ट्रॉनिक लिमिटेड, 210 ए, सेक्टर-ए, जोन बी, मंचेश्वर इंडस्ट्रियल एस्टेट, भुवनेश्वर-751010, उड़ीसा द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथाथता वर्ग-III) वाले “के ई एल” श्रृंखला और ब्रांड के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/675 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृत गेज प्रकार का अस्वचालित भार सेल आधारित तोलन (प्लेट फार्म प्रकार) उपकरण है। इसकी अधिकतम क्षमता 100 कि. ग्रा. और न्यूनतम क्षमता 500 ग्रा. है। सत्यापन मापमान अंतराल (इं) का मान 10 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल.ई.डी.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट ए.सी., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्पार्पिंग प्लेट के सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए भी सीलबन्दी किया जाएगा।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक “ई” मान के लिए 500 से 10,000 कि. ग्राम तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 500 कि. ग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^5 , 2×10^5 या 5×10^5 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (99)/2004]

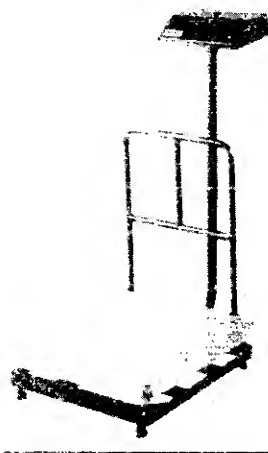
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4159.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy class-III) and brand and series "KEL" (herein referred to as the said model), manufactured by M/s. Krish Electronics Limited, 210A, Sector-A, Zone B, Mancheswar Industrial Estate, Bhubneshwar-751010, Orissa and which is assigned the approval mark IND/09/2005/675:

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 100 kg. and minimum capacity of 500g. The verification scale interval (e) is 10g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of same series with maximum capacity above 50 kg and upto 500 kg with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(99)/2004]

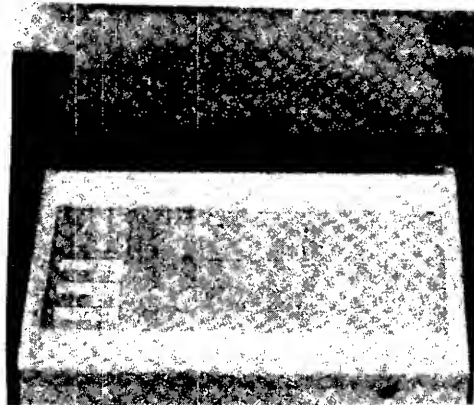
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4160.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एटमा टेक्नालोजीज, एच 16/4, 100 फिट रोड (जवाहर लाल नेहरू रोड), वडापलानी, चेन्नई-600026 द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले “ए जो एम” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “एटमा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/498 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृत गेज प्रकार का भार सेल आधारित ड्यूल रेंज प्रकार का तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. है और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल. ई. डी.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट ए सी, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टैपिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्ध किया जाएगा।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के “ई” मान के लिए, 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिकतम क्षमता वाले हैं और “ई” मान 1×10^{-2} , 2×10^{-2} या 5×10^{-2} के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (248)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4160.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table Top type) with digital indication of high accuracy (Accuracy class-II) and brand "ATMA" and series "AJM" (herein referred to as the said model), manufactured by M/s. Atma Technologies, H 16/4, 100 ft. Road, (Jawahar Lal Nehru Road), Vadapalani, Chennai-600 026 and which is assigned the approval mark IND/09/2005/498;

The said model (See the Figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 30 kg. and minimum capacity of 100 g. The verification scale interval (e) is 2g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series, with maximum capacity above 50 kg and with number of verification scale interval (n) in the range of 5,000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

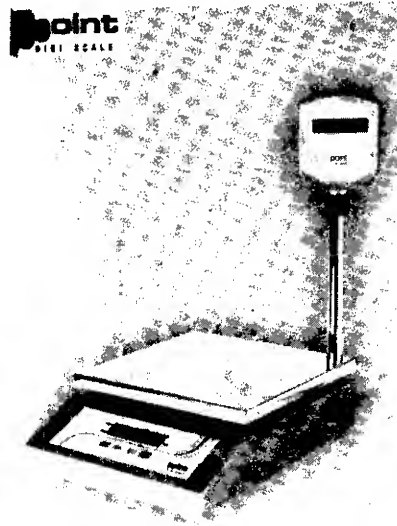
[F. No. WM-21(248)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4161.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स यश टेक्नोलोजीज, 90-ए, शास्त्री रोड, राम नगर, कोयम्बतूर-641009, तमिलनाडु द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "पी टी एस" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टोप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "पाइंट" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/428 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण (टेबलटोप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक 'ई' मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के 'ई' मान के लिए 500 से 10,000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान 1×10^3 , 2×10^3 या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

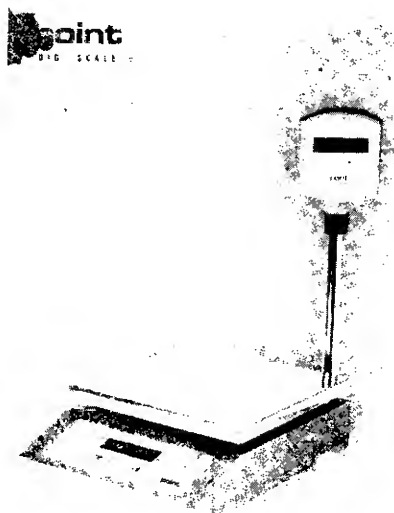
[फा. सं. डब्ल्यू एम-21(369)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4161.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table top type) with digital indication of "PTS" series of medium accuracy (Accuracy class-III) and with brand name "POINT" (herein referred to as the said Model), manufactured by M/s. YES, YES Technologies, 90-A, Shastri Road, Ram Nagar, Coimbatore-641 009, Tamil Nadu which is assigned the approval mark IND/09/05/428.



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

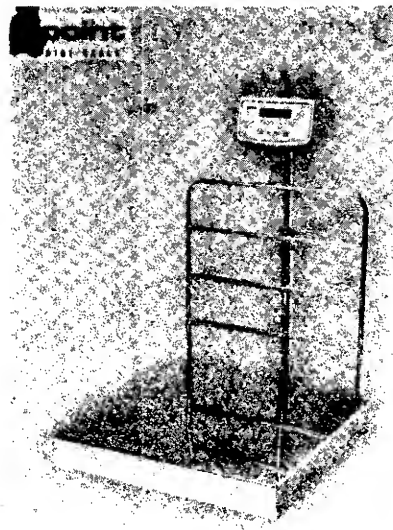
[F. No. WM-21(369)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4162.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स यश टेक्नोलोजीज, 90-ए, शास्त्री रोड, राम नगर, कोयम्बतूर—641009, तमिलनाडु द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "पी सी एम" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "पाइंट" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/458 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सेल आधारित तोलन उपकरण (प्लेटफार्म प्रकार का) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. है और न्यूनतम क्षमता 4 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्पन्नक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टैमिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के 'ई' मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान 1×10^5 , 2×10^5 या 5×10^5 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतल्य हैं।

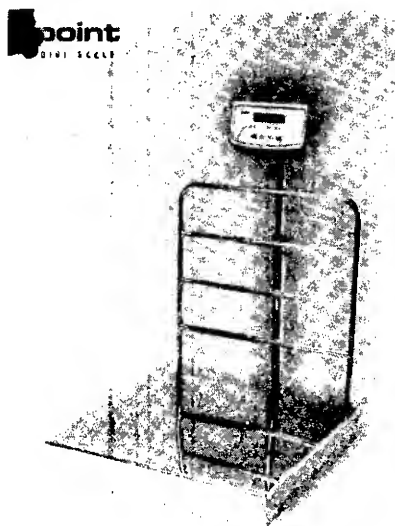
[फा. सं. डब्ल्यू एम-21(369)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4162.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "PPS" series of medium accuracy (Accuracy class-III) and with brand name "POINT" (herein referred to as the said Model), manufactured by M/s. Yes YES Technologies, 90-A, Shastri Road, Ram Nagar, Coimbatore-641 009, Tamil Nadu which is assigned the approval mark IND/09/2005/458;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and upto 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

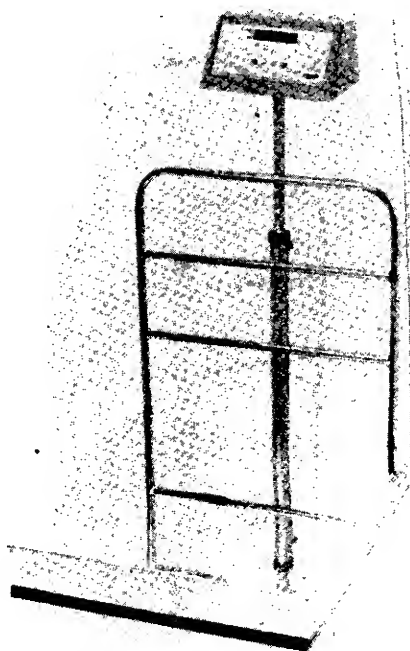
[F. No. WM-21(369)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4163.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एक्सीटेक, 152 थम्बु चेट्टी स्ट्रीट, प्रथम तल, गुलाम अली बिल्डिंग, चैन्नई-600001 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एक्स टी-5060" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एक्सी टेक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/309 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गैज प्रकार का लोड सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. है और न्यूनतम क्षमता 4 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपुर्ण व्यं के मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के 'ई' मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

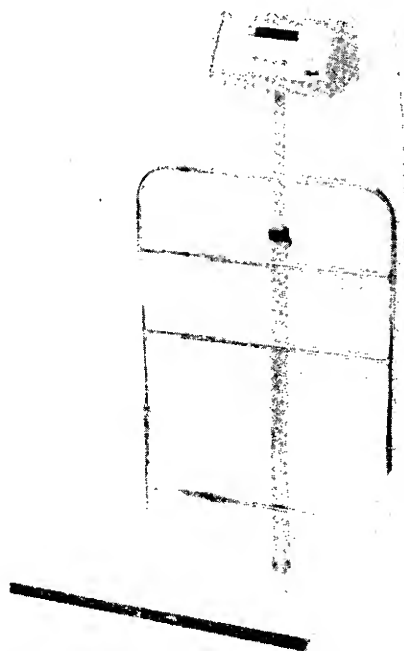
[फा.सं. डब्ल्यू एम-21(303)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4163 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of "XP-5060" series of medium accuracy (Accuracy class-III) and with brand name "XITECH" (hereinafter referred to as the said Model), manufactured by M/s. Xitech, # 152, Thambu Chetty Street, 1st Floor, Goolam Ali Building, Chennai-600 001 and which is assigned the approval mark IND/09/2005/309;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz Alternative Current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that **this certificate** of approval of the said Model shall also cover the weighing instruments of **similar make**, accuracy and performance of same series with maximum capacity above 50 kg. up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

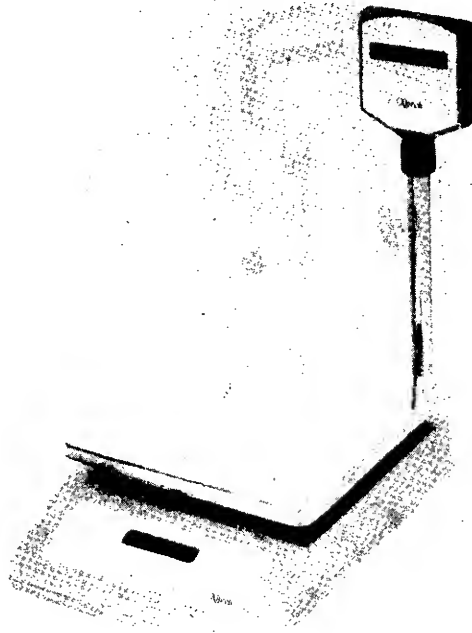
[F. No. WM-21(303)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4164.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एक्सीटेक, 152 थम्बु चेटी स्ट्रीट, प्रथम तल, गुलाम अली बिल्डिंग, चैन्नई-600001 द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एक्स टी-5050" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टोप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एक्सी टेक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/308 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण (टेबल टोप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिये सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्राम तक 'ई' मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

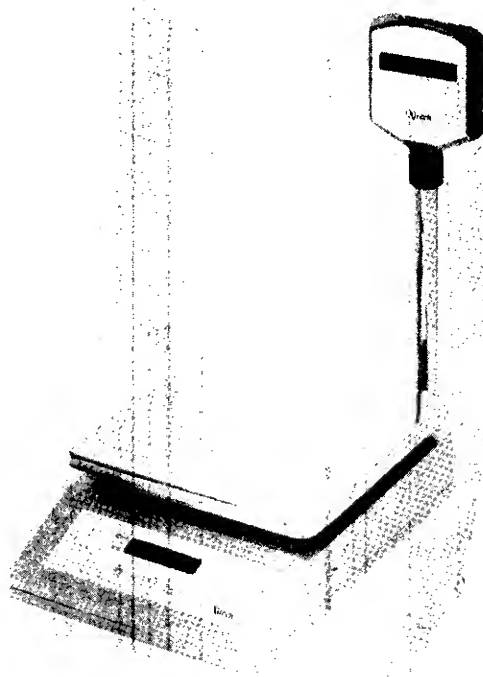
[फा. सं. डब्ल्यू एम-21(303)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4164.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "XT-5050" series of medium accuracy (Accuracy class-III) and with brand name "XITECH" (herein referred to as the said model), manufactured by M/s. Xitech, 152, Thambu Chetty Street, 1st Floor, Goolam Ali Building, Chennai-600 001 and which is assigned the approval mark IND/09/2005/308;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table Top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent from opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

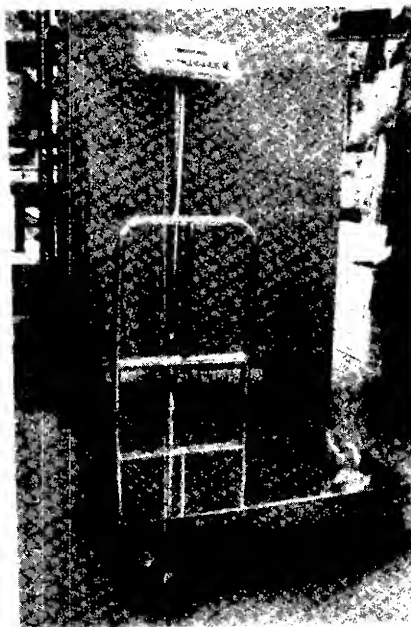
[F. No. WM-21(303)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4165.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रैडलेण्ड मशीनरी प्राइवेट लिमिटेड 351, मानियलारा थोट्टम, एम एस पुरम, कुनि आमुथुर, कोयम्बतूर-641008, तमिलनाडु द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "आर पी पी" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "रैडलेण्ड" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/384 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गौण प्रकार का लोड सेल आधारित अस्वचालित (प्लेट फार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

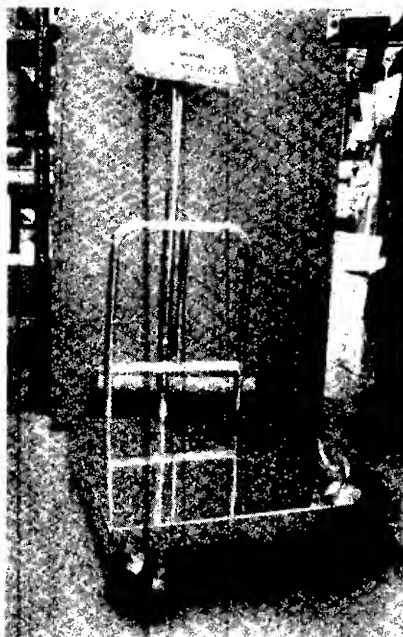
[फा. सं. डब्ल्यू एम-21(152)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4165.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of "R-PP" series of medium accuracy (Accuracy class-III) and with brand name "REDLANDS" (hereinafter referred to as the said Model), manufactured by M/s. Redlands Machinery Private Limited, 351, Maniakara Thottam, N.S.Puram, Kuniamuthur, Coimbatore-641 008, Tamil Nadu and which is assigned the approval mark IND/09/2005/384;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

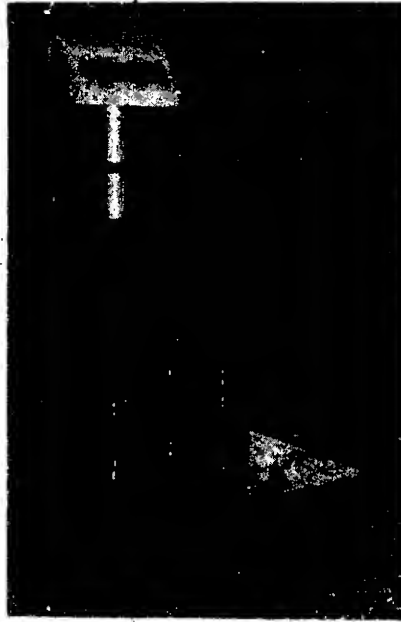
[F. No. WM-21(152)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4166.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रैडलेण्ड मशीनरी प्राइवेट लिमिटेड 351, मानियलारा थोट्टम, एम एस पुरम, कुनि आनुधुर, कोयम्बतूर-641008, तमिलनाडु द्वारा निर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "आर पी पी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फॉर्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "रैडलेण्ड" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/383 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गौण प्रकार का लोड सेल आधारित अस्वचालित (प्लेट फॉर्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 600 कि.ग्रा. और न्यूनतम क्षमता 2.5 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

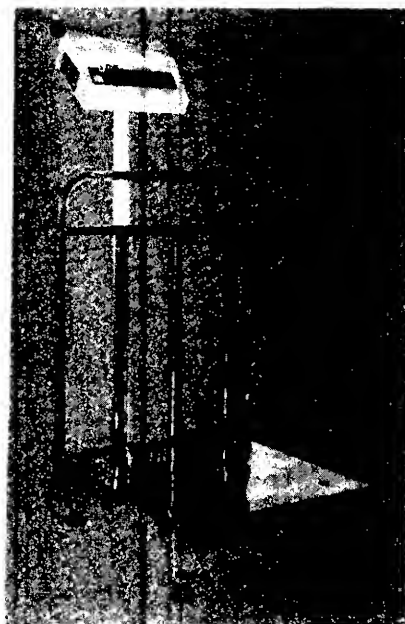
[फा. सं. डब्ल्यू एम-21(152)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4166.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of "R-PP" series of high accuracy (Accuracy class-II) and with brand name "REDLANDS" (hereinafter referred to as the said Model), manufactured by M/s. Redlands Machinery Private Limited, 351, Maniakara Thottam, N. S. Puram, Kuniyamuthur, Coimbatore-641 008, Tamil Nadu and which is assigned the approval mark IND/09/2005/383;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 600 kg. and minimum capacity of 2.5kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 1000kg. with verification scale interval (n) in the range of 500 to 50,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

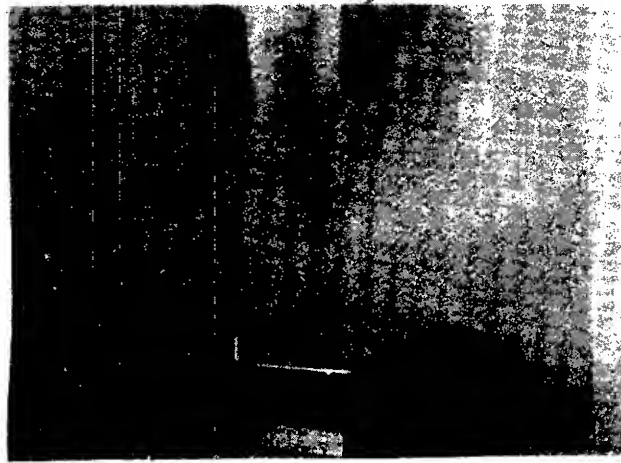
[F. No. WM-21(152)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4167.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रैडलेण्ड मशीनरी प्राइवेट लिमिटेड 351, मानियलारा थोट्टम, एम एस पुरम, कुनि आमुथुर, कोयम्बतूर-641008, तमिलनाडु द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "आर बी टी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेंबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "रैड लेण्ड" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/382 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गौण प्रकार का लोड सैल आधारित अस्वचालित (टेंबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्राम तक "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

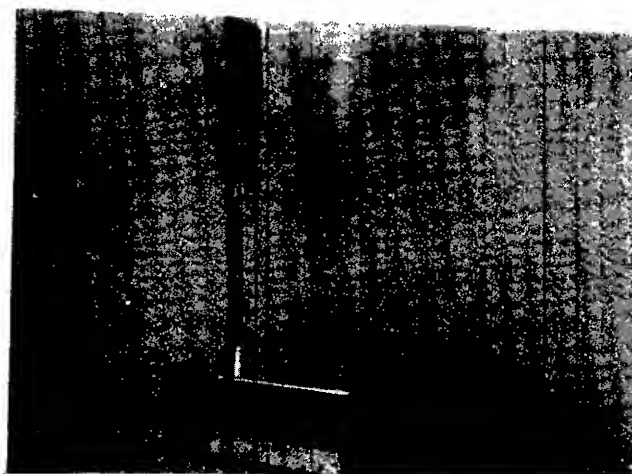
[फा. सं. डब्ल्यू एम-21(152)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4167.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "R-BT" series of medium accuracy (Accuracy class-III) and with brand name "REDLANDS" (hereinafter referred to as the said model), manufactured by M/s. Redlands Machinery Private Limited, 351, Maniakara Thottam, N.S.Puram, Kuniamuthur, Coimbatore-641 008, Tamil Nadu and which is assigned the approval mark IND/09/05/382;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(152)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4168.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रैडलेण्ड मशीनरी प्राइवेट लिमिटेड 351, मानियलारा थोट्टम, एम एस पुरम, कुनि आमुथुर, कोयम्बतूर-641008, तमिलनाडु द्वारा निर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “आर बी पी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “रैड लैण्ड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/381 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गौण प्रकार का लोड सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक “ई” मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 100 कि.ग्रा. या उससे अधिक “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन माप मान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

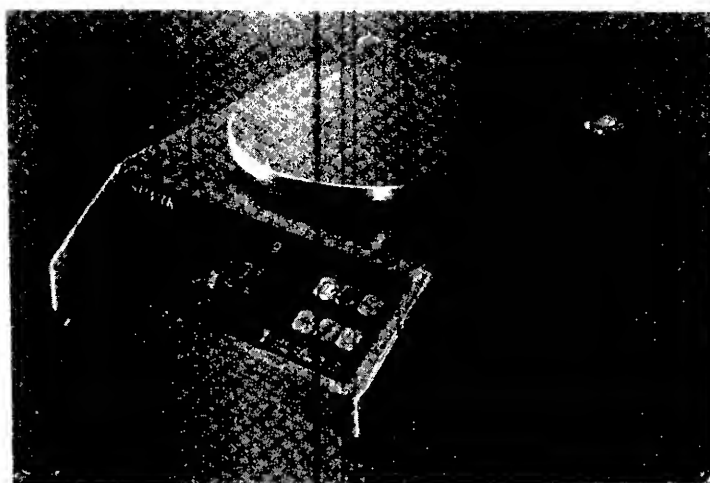
[फा. सं. डब्ल्यू एम-21(152)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4168.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of "R-BP" series of high accuracy (Accuracy class-II) and with brand name "REDLANDS" (hereinafter referred to as the said Model), manufactured by M/s. Redlands Machinery Private Limited, 351, Maniakara Thottam, N. S. Puram, Kuniamuthur, Coimbatore-641 008, Tamil Nadu and which is assigned the approval mark IND/09/05/381;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg. with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

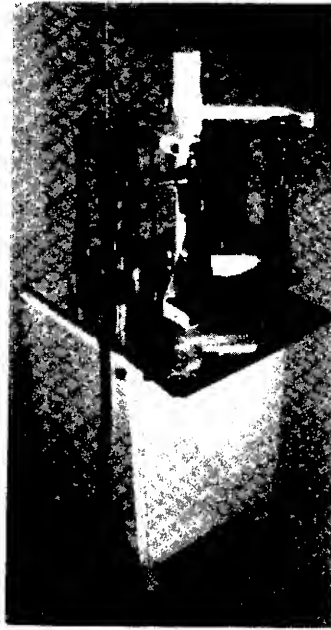
[F. No. WM-21(152)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4169.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कामाँको मशीन्स, 1, साने इंडीस्ट्रीयल एस्टेट, आकुर्डी, चिखाली रोड, चिखाली, ताल हवेली, जिला पुणे-411030, महाराष्ट्र द्वारा निर्मित शृंखला के स्वचालित द्रव भरण इलैक्ट्रॉनिक भरण मशीन (प्रिस्टन फिल्टर प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वैक्यूम फिल्टर" है (जिसे उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/178 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल स्वचालित (प्रिस्टन भरण) मशीन है। इसकी क्षमता 5 ग्राम से 1000 ग्राम है और मि ली ने समतुल्य आयतन है। यह सिलिंग युति है और यह द्रव उत्पादों जैसे जल, खाद्य तेल और अन्य मुक्त प्रवाह द्रवों से भरण करने के लिए है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है। यह 2200 भरण/घंटा की चाल से भरण करता है।

सीलबंद किया जाना : स्टाम्पिंग प्लेट की सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंदी की जाएगी।

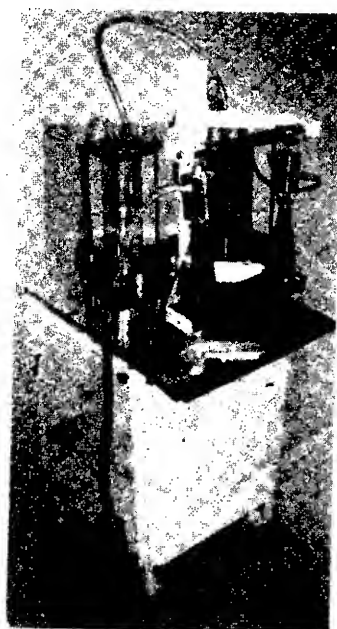
[फा. सं. डब्ल्यू एम-21(21)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4169.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of automatic filling machine (Piston Filler) of series and brand name "VACCUME FILLER" (herein referred to as the said Model), manufactured by M/s Pharmaco Machines, I, Sane Industrial Estate, Akurdi-Chikhali Road, Chikhali, Tal-Haveli, Dist. Pune-411030, Maharashtra and which is assigned the approval Mark IND/09/05/178.



The said model is an automatic filling machine (Piston Filler) with a capacity in the range of 5g to 1000g and equivalent volume in ml. It has sealing device and is used for filling of liquid products like water, edible oil, and other free flowing liquids. It fills with a speed of 2200 fills per hour. The instrument operates on 230 Volts, 50 Hertz alternate current supply.

In addition to sealing stamping plate, sealing shall also be done to prevent the operating of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with capacity in the range of 5g to 1000g and equivalent volume in ml manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(21)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4170.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कामोंको मशीन्स, 1, साने इंडीस्ट्रीयल एस्टेट, आकुर्डी, चिखाली रोड, चिखाली, ताल हवेली, जिला पुणे-411030, महाराष्ट्र द्वारा निर्मित शृंखला के स्वचालित द्रव भरण भार मशीन (प्रिस्टन फिलर प्रकार) के मॉडल का, जिसके ब्रांड का नाम "प्रिस्टन फिलर" है (जिसे उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/176 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल स्वचालित भरण मशीन (प्रिस्टन फिलर) है। इसकी अधिकतम क्षमता 5 ग्राम से 100 ग्राम रेंज की है और मि. ली. में समतुल्य आयतक है। यह द्रव उत्पादों से यह सिलिंग युक्ति है और पानी, खाद्य तेल और अन्य नुस्का प्रवाह द्रवों के भरने में प्रयोग होता है। यह 2400 भरण/घंटा की चाल से भरण करता है।

सीलबंद किया जाना : स्टाम्पिंग प्लेट की सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंदी की जाएगी।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. से 100 ग्रा. की रेंज की क्षमता वाला है।

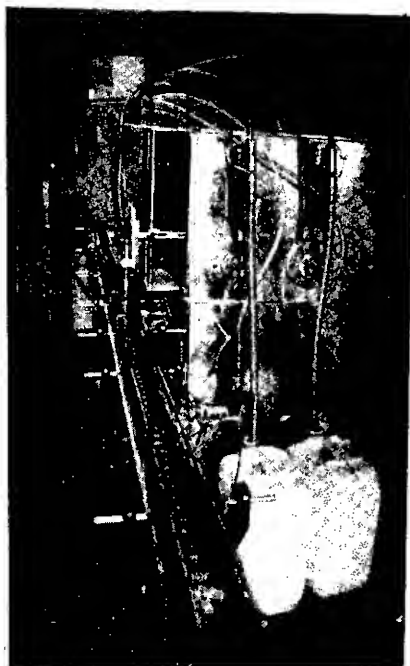
[फा. सं. डब्ल्यू एम-21(21)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4170 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of automatic liquid filling machine (Piston Filler) of series and brand name " PISTON FILLER" (herein referred to as the said Model), manufactured by M/s Pharmaco Machines, I, Sane Industrial Estate, Akurdi-Chikhali Road, Chikhali, Tal-Haveli, Dist. Pune-411030, Maharashtra and which is assigned the approval Mark IND/09/05/176.



The said model is an automatic filling machine (Piston Filler) with a capacity in the range of 5g to 1000g and equivalent volume in ml. It has sealing device and is used for filling of liquid products like water, edible oil, and other free flowing liquids. It fills with a speed of 2400 fills per hour. The instrument operates on 230 Volts, 50 Hertz alternate current supply.

In addition to scaling stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with capacity in the range of 5g to 1000g and equivalent volume in ml manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(21)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4171.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कामाँको मशीन्स, 1, साने इंडीस्ट्रियल एस्टेट, आकुर्डी, चिखाली रोड, चिखाली, ताल हवेली, जिला पुणे-411030, महाराष्ट्र द्वारा निर्मित शृंखला के स्वचालित द्रव भरण गुरुत्वामापी भरण मशीन (वेइंग फिलर—भार सेल आधारित) के मॉडल का, जिसके ब्रांड का नाम "ग्रेवरी फिलर" है (जिसे उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/177 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल स्वचालित गुरुत्वामापी भरण मशीन (भार भरण—भार सेल आधारित) भरण मशीन है। इसकी अधिकतम क्षमता 1000 ग्रा. और न्यूनतम क्षमता 5 ग्रा. है। यह मुक्त प्रवाह बिना धूल उत्पाद जैसे चाय, दालें, तेल आदि को भरने के लिए डिजाइन किया जाता है। यह 2200 भरण/घंटा की चाल से भरण करता है।

सीलबंद किया जाना : स्टाम्पिंग प्लेट की सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंदी की जाएगी।

[फा. सं. डब्ल्यू एम-21(21)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th October, 2005

S.O. 4171.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of automatic gravimetric filling machine (Weigh Filler-Load cell based) of series and brand name "GRAVITY FILLER" (herein referred to as the said Model), manufactured by M/s Pharmaco Machines, 1, Sane Industrial Estate, Akurdi-Chikhali Road, Chikhati, Tal-Haveli, Dist. Pune-411030, Maharashtra and which is assigned the approval Mark IND/09/05/177.



The said model is an automatic gravimetric filling machine (Weigh Filler-Load cell based) with a maximum capacity 1000g and minimum capacity 5g and equivalent capacity in ml. It is designed to fill free flowing non-dusty products such as tea, pulses, oil etc. It fills with a speed of 2200 fills per hour. The instrument operates on 230 Volts, 50 Hertz alternate current supply.

In addition to sealing stamping the plate, sealing shall also be done to prevent the operating of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make and performance of same series with capacity in the range of 5g to 1000g and equivalent capacity in ml manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(21)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 20 अक्टूबर, 2005

का. आ. 4172.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स पारस टेक्नोलोजिज इण्डिया, सं. 2/3, खाजी स्ट्रीट क्रॉस, बासवानगुडी, बंगलौर-560004, कर्नाटक द्वारा निर्मित 'एम एस-313 ए/टी' शृंखला के अंकक सूचन सहित टैक्सी मीटर, के मॉडल का, जिसका ब्रांड का नाम 'पारस' है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/05/262 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



टैक्सी मीटर का उक्त मॉडल समय और दूरी मापने वाला उपकरण है जो यात्रा के किसी क्षण का किराया, यात्रा की गई दूरी और किसी कतिपय गति के कार्य के रूप में सार्वजनिक यान के यात्री द्वारा संदेय प्रभार, लिया गया समय, प्राधिकृत किराये के अनुसार, अनुपूरक प्रभारी का स्वतंत्र उपदर्शित करता है, और निरंतर योग करता है। "के" घटक 1350 पल्स प्रति किलोमीटर है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 12 वोल्ट दिष्ट धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

[फा. सं. डब्ल्यू एम-21(287)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th October, 2005

S.O. 4172.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of "Taxi Meter" with digital indication (hereinafter referred to as the said model) of "MS-313 A/T" series with brand name "PARAS" manufactured by M/s Paras Technologies India, No. 2/3, Khazi Street Cross, Basavangudi, Bangalore-560004, Karnataka and which is assigned the approval mark IND/09/05/262;



The said model of "Taxi meter" is a time and distance measuring instrument which totalizes continuously and indicates the fare at any moment of journey, the charges payable by the passenger of a public vehicle as function of the distance travelled and below a certain speed and the length of the time occupied, independent of supplementary charges according to the authorized tariffs. The 'k' factor is 1350 pulses/kilometer. The instruments operates on 12 Volts direct current power supply. The fare is displayed on a five digit Light Emitting Diode (LED) display, the distance on a four digit display and time travelled on a four digit display.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

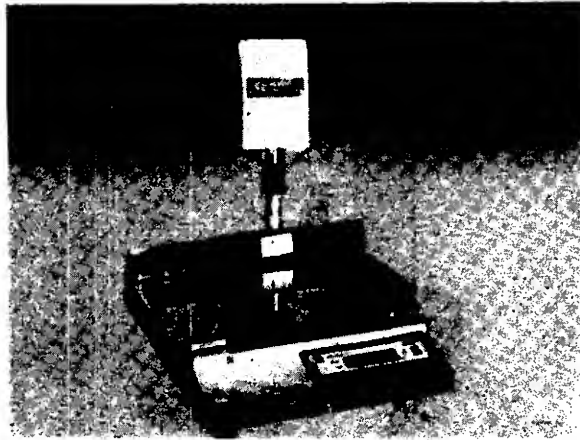
[F. No. WM-21(287)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 20 अक्टूबर, 2005

का. आ. 4173.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स चुग स्केल प्रा. लि., दुकान नं. 13 और 15, मार्केट नं. 5, एन आई टी फरीदाबाद, हरियाणा द्वारा निर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "सीएस-टीटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "चुग" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/376 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण (टेबल टॉप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्राम से 50 मि. ग्राम तक 'ई' मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्राम या उससे अधिक के 'ई' मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

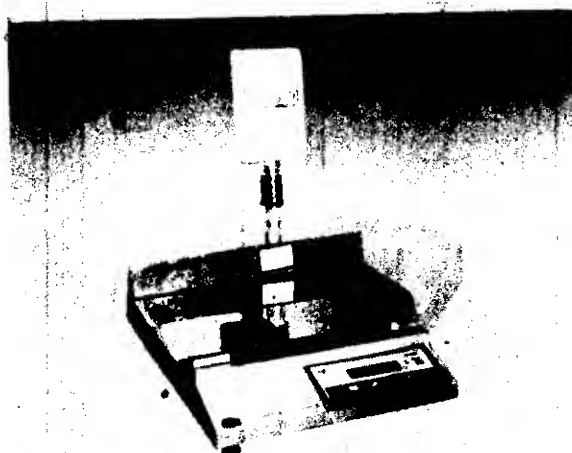
[फ़. सं. डब्ल्यू एम-21(269)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th October, 2005

S.O. 4173.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "CSTT" series of high accuracy (Accuracy class-II) and with brand name "Chugh" (hereinafter referred to as the said model), manufactured by M/s. Chugh Scale Private Limited, Shop No. 13 and 15, Market No. 5, NIT Faridabad, Haryana and which is assigned the approval mark IND/05/376;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply;

In addition to sealing the stamping plate, scaling shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50 mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the said approved model has been manufactured.

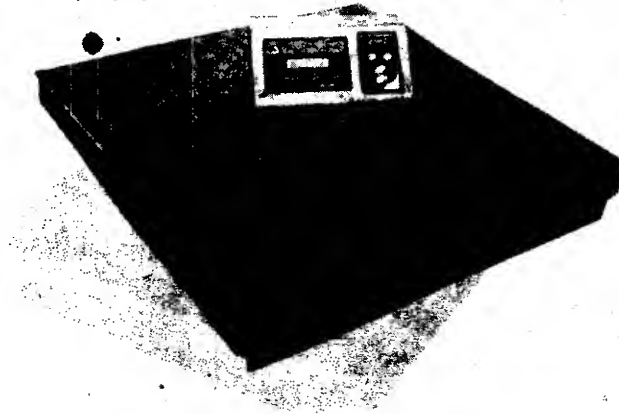
[F. No. WM-21(269)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 20 अक्टूबर, 2005

का.आ. 4174.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स चुग स्केल प्रा. लि., दुकान नं. 13 और 15, मार्केट नं. 5, एन आई टी फरीदाबाद, हरियाणा द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "सीएस-पीएल" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "चुग" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/377 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार सैल आधारित (प्लेटफार्म प्रकार) का अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 1100 कि. ग्रा. है और न्यूनतम क्षमता 5 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री, से जिससे अनुमोदित मॉडल का विनिर्मित किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्राम या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

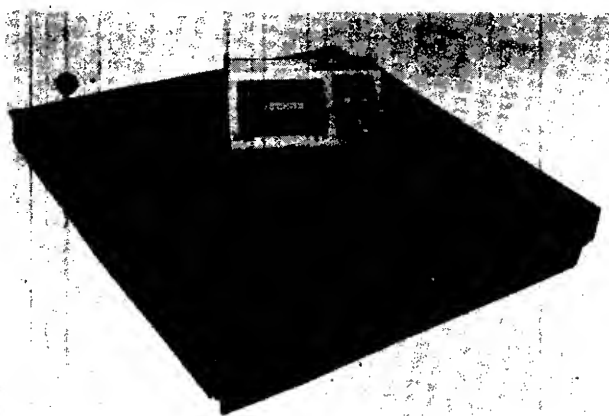
[फा. सं. डब्ल्यू एम-21(269)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th October, 2005

S.O. 4174.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "CSPL" series of high accuracy (Accuracy class-11) and with brand name "Chugh" (hereinafter referred to as the said model), manufactured by M/s. Chugh Scale Private Limited, Shop No. 13 and 15, Market No. 5, NIT Faridabad, Haryana and which is assigned the approval mark IND/09/05/377;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1100kg and minimum capacity of 5kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50kg and upto 5000kg. with verification scale interval (n) in range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(269)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 20 अक्टूबर, 2005

का.आ. 4175.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स स्मार्ट वेईंग टेक्नोलोजीज, 4/642-1, मारुति नगर, धार्गा होसर, तमिलनाडु-635126 द्वारा निर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एस पी एस" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के माडल का, जिसके ब्राण्ड का नाम "स्मार्ट" है (जिसे इसमें इसके पश्चात् उक्त माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/287 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त माडल एक विकृत गेज प्रकार का लोड सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। जिसकी अधिकतम क्षमता 2600 कि.ग्रा. और न्यूनतम क्षमता 2.5 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट का मुद्रांकन करने के अतिरिक्त, मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित माडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से अधिक और 1000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू एम-21(311)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th October, 2005

S.O. 4175.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "SPS" series of high accuracy (accuracy class-II) and with brand name "SMART" (hereinafter referred to as the said model), manufactured by M/s. Smart Weighing Technologies, 4/642-1, Maruthi Nagar, Dharga, Hosur, Tamil Nadu, Pin 635126 and which is assigned the approval mark IND/09/2005/287;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 600kg and minimum capacity of 2.5 kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instruments operate on 230Volts, 50Hertz alternative current power supply.

In addition to scaling the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and upto 1000 kg with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

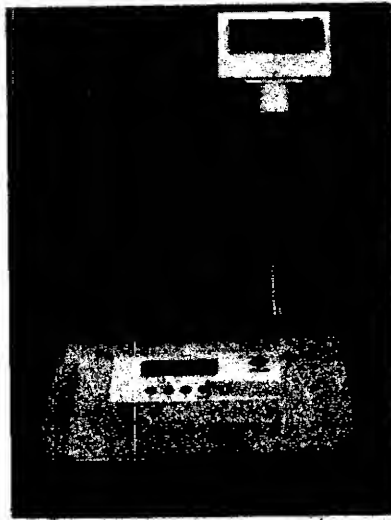
[F. No. WM-21(311)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 21 अक्टूबर, 2005

का.आ. 4176.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स स्मार्ट वेईंग टेक्नोलोजीज, 4/642-1, मारुति नगर, धार्गा होसर, तमिलनाडु-635126 द्वारा निर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "एस जे पी" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेट टोप प्रकार) के माडल का, जिसके ब्राण्ड का नाम "स्मार्ट" है (जिसे इसमें इसके पश्चात् उक्त माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/286 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त माडल एक विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण (टेबल टॉप प्रकार का) है। जिसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त, मशीन को कपटपूर्ण व्यवहार के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित माडल का निर्माण किया गया है, से विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि.ग्रा. तक "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(311)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 20th October, 2005

S.O. 4176.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "SJP" series of high accuracy (accuracy class-II) and with brand name "SMART" (hereinafter referred to as the said model), manufactured by M/s. Smart Weighing Technologies, 4/642-1, Maruthi Nagar, Dharga, Hosur, Tamil Nadu, Pin 635 126 and which is assigned the approval mark IND/09/2005/286:



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(311)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का.आ. 4177.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रामा इक्विपमेंट कं., टिम्बर मार्किट, 5वाँ क्रास रोड, अम्बाला छावनी-133001 हरियाणा द्वारा निर्मित साधारण यथार्थता वर्ग (यथार्थता वर्ग-III) वाले सदृश सूचन सहित अस्वचालित तोलन उपकरण (स्प्रिंग तुला प्रकार) के मॉडल का, जिसके ब्रांड का नाम “रीको” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/259 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल यांत्रिक स्प्रिंग आधारित सदृश सूचन सहित अस्वचालित तोलन उपकरण (स्प्रिंग तुला प्रकार का) है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 10 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 1 कि.ग्रा. है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के ‘ई’ मान के लिए 100 से 1,000 तक की रेंज में मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

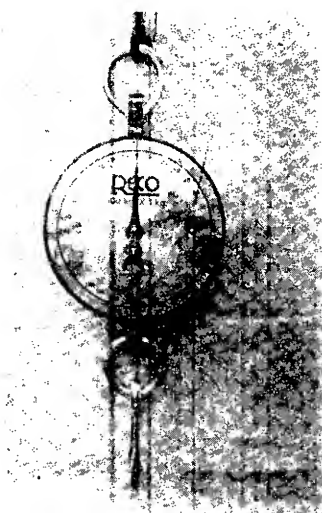
[फा. सं. डब्ल्यू एम-21(343)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4177.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of, non-automatic weighing instrument (Spring balance type) with analogue indication (hereinafter referred to as the said model) belonging to ordinary accuracy class (accuracy class III) and with brand name "RECO", manufactured by M/s. Rama Equipment Co., No, 2742, Timber Market, 5th Cross Road, Ambala Cantt -133 001, Haryana and (which is assigned the approval mark IND/09/05/259.



The said model is a mechanical spring based non-automatic weighing instrument (Spring Balance type) with analogue indication of maximum capacity of 300 kg., minimum capacity of 10 kg. The value of verification scale interval 'e' is 1kg.

In addition to sealing the stamping plate sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 1000 kg and with number of verification scale interval (n) in the range of 100 to 1000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , K being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

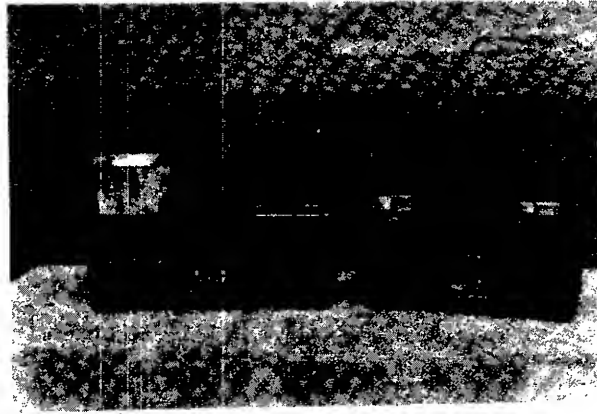
[F. No. WM-21(343)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4178.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रामा इक्विपमेंट कं., टिम्बर मार्किट, 5वां क्रास रोड, अम्बाला छावनी-133001 हरियाणा द्वारा निर्मित गणक मशीन के मॉडल का, जिसका ब्रांड का नाम "रीको" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/05/260 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक गणक मशीन है। इसकी अधिकतम क्षमता 10 कि.ग्रा. है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन की गणक मशीन भी होंगी जो रेंज में 500 ग्रा. से 50 कि.ग्रा. तक अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(343)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4178.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of, counter machine with brand name 'RECO' (hereinafter referred to as the model) manufactured by M/s. Rama Equipment Co.No, 2742, Timber Market, 5th Cross Road, Ambala Cantt -133 001, Haryana and which is assigned the approval mark IND/09/5/428/260;

The said model (see the figure given below) is a counter machine with maximum capacity of 10kg.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 500g to 50kg, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

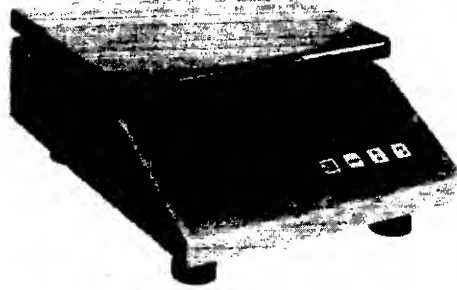
[F. No. WM-21(343)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का.आ. 4179.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कान्हा स्केल इंडस्ट्रीज नं. 39, दशमोनी काम्पलेक्स, अटक पाडी राजमार्ग, कृष्णा होटल के पास, वलसाड, गुजरात द्वारा निर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "के जे 22" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम "कान्हा विजन" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/404 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सैल आधारित अस्वचालित (टेबल टॉप प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 22 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अन्तराल (ई) का मान 2 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल. ई. डी.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

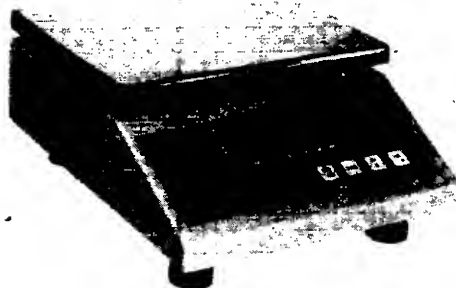
[फा. सं. डब्ल्यू एम 21(326)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4179.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "KJ" series of high accuracy (Accuracy class-II) and with brand name "KANHA" (herein after referred to as the said model), manufactured by M/s. Kanha Scale Industries, No. 39, Dashmani Complex, Atak Pardi Highway, Near Krishna Hotel, Valsad, Gujarat and which is assigned the approval mark IND/09/2005/404;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 22 kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

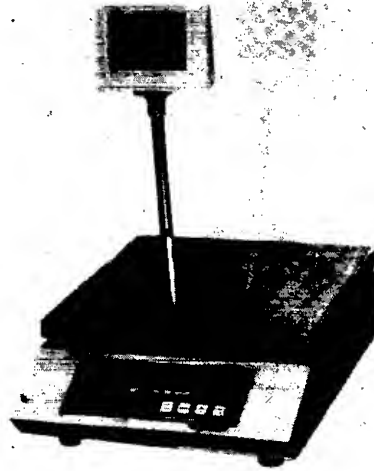
[F. No. WM-21(326)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4180.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कान्हा स्केल इंडस्ट्रीज नं. 39, दशमोनी काम्पलेक्स, अटक पार्डी राजमार्ग, कृष्णा होटल के पास, वलसाड, गुजरात द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "के टी 30" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम "कान्हा विजन" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/405 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सैल आधारित अस्वचालित (टेबल टॉप प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल. ई. डी.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त, मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्राम तक "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

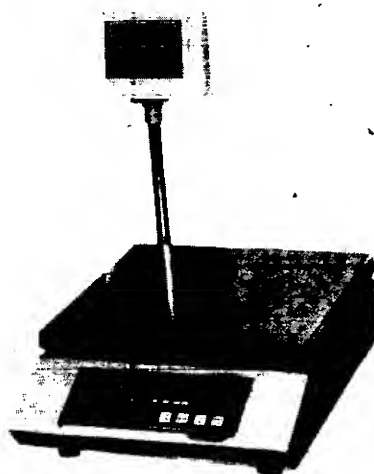
[फा. सं. डब्ल्यू एम-21(326)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4180.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of "KT" series of medium accuracy (Accuracy class-III) and with brand name "KANHA" (hereinafter referred to as the said Model), manufactured by M/s. Kanha Scale Industries, No. 39, Dashmani Complex, Atak Pardi Highway, Near Krishna Hotel, Valsad, Gujarat and which is assigned the approval mark IND/09/2005/405;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 V, 50 Hz alternative current power supply.

In addition to sealing the stamping plate sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

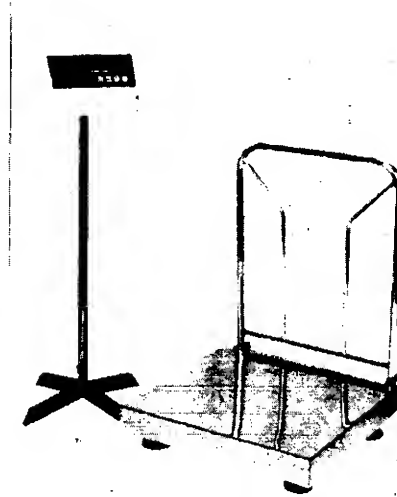
[F. No. WM-21(326)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4181.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा-प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कान्हा स्केल इंडस्ट्रीज नं. 39, दशमोनी काम्पलैक्स, अटक पार्डी राजमार्ग, कृष्णा होटल के पास, बलसाड, गुजरात द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “के पी 1000” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “कान्हा विजन” है (जिसे इसमें पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/406 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सेल आधारित अस्वचालित (प्लेट फार्म प्रकार का) का तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. है और न्यूनतम क्षमता 2 कि. ग्राम है। सत्यापन मापमान अंतराल (ई) का मान 100 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्ट्रूमिंग प्लेट के मुद्रांकन के अतिरिक्त, मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से अधिक 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

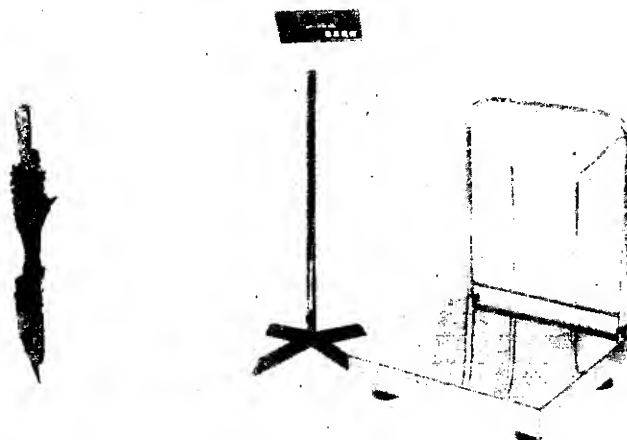
[फा. सं. डब्ल्यू एम-21(326)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4181.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform type) with digital indication of "KP" series of medium accuracy (Accuracy class-III) and with brand name "KANHA" (hereinafter referred to as the said model), manufactured by M/s. Kanha Scale Industries, No. 39, Dashmani Complex, Atak Pardi Highway, Near Krishna Hotel, Valsad, Gujarat and which is assigned the approval mark IND/09/2005/406.



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

In addition to sealing the stamping plate sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 5000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, said the approved model has been manufactured.

[F. No. WM-21(326)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4182.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अलाइस इंस्ट्रूमेंट, 18/ए, नवरंग सोसायटी, गेवनशपीर बस स्टॉप, ईसानपुर, बटवा रोड, अहमदाबाद, गुजरात द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "ए एल टी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम "अलाइस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/05/863 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृत गेज प्रकार का भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अंतराल (ई) 2 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबंद किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि.ग्रा. के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(263)/2004]

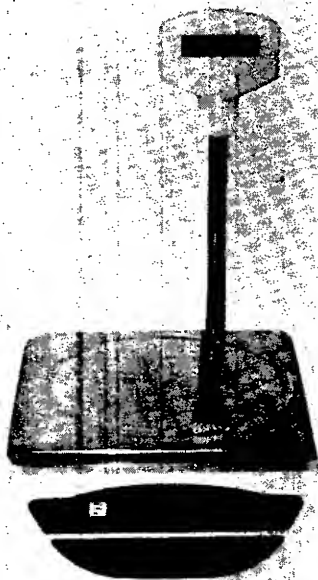
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4182.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the non-automatic weighing instrument (Table Top type) with digital indication of high accuracy (Accuracy class-II) and brand "ALIES" and series "ALT" (herein referred to as the said model), manufactured by M/s. Alies Instruments, 18/A, Navrang Society, Nr. Gebanshapir Bus Stop, Isanpur Vatva Road, Ahmedabad, Gujarat and which is assigned the approval mark IND/09/2005/863;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50Hertz alternate current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity up to 50kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(263)/2004]

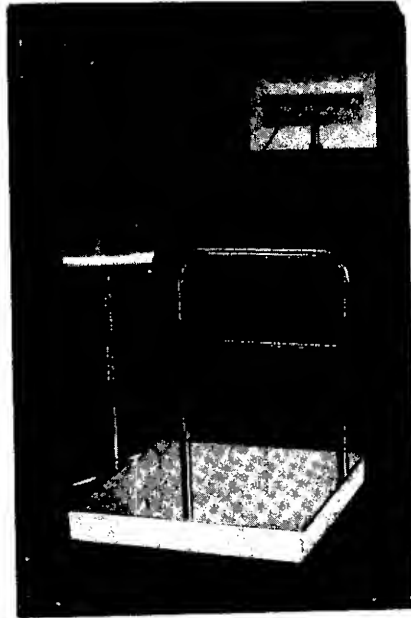
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का.आ. 4183.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अलाइस इंस्ट्रुमेंट, 18/ए, नवरंग सोसायटी, गेवनशपीर बस स्टाप, ईसानपुर, चट्टा रोड, अहमदाबाद, गुजरात द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "ए एल पी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "अलाइस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/864 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृत गेज प्रकार का भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 500 कि.ग्रा. है और न्यूनतम क्षमता 2 ग्राम है। सत्यापन मापमान अन्तराल (ई) 100 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबंद किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के 5 ग्राम या उससे अधिक "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से 1000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(263)/2004]

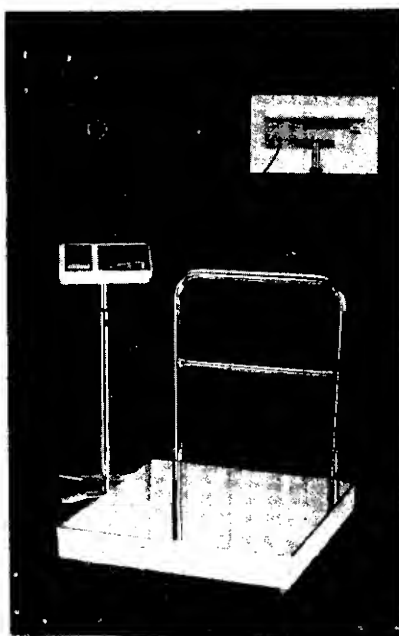
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4183.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy class-III) and brand “ALIES” and series “ALP” (herein referred to as the said model), manufactured by M/s. Alies Instruments, 18/A, Navrang Society, Nr. Gebanshapir Bus Stop, Isanpur Vatva Road, Ahmedabad, Gujarat and which is assigned the approval mark IND/09/05/864;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 500kg and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 V, 50Hz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of same series with maximum capacity above 50kg and up to 1000 kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

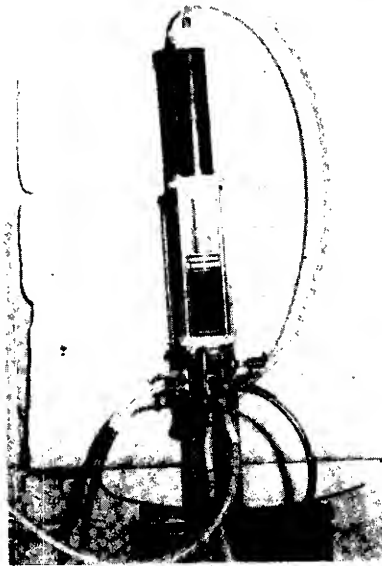
[F. No. WM-21(263)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का.आ. 4184.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स राजेन्द्र इंजीनियरिंग वर्क्स, 10, सारंग स्ट्रीट, मुंबई-400003 द्वारा विनिर्मित "आर ई डब्ल्यू 02" शृंखला के द्रव मीटर (पानी से इतर) के मॉडल का, जिसका ब्रांड का नाम "2-टी एटैचमेंट" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/865 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त, मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

उक्त मॉडल (उपरोक्त आकृति देखें) एक गैस यांत्रिकी आधारित द्रव मीटर (पानी से इतर) है। इसमें एक स्टोरेज टैंक और एक मापक इकाई अर्थात् ग्रेजुएटेड जार एसेंबली होती है जिसकी क्षमता 300 मि. ली. और जिसमें लघुतम विभाजन 10 मि. ली. होता है जो पेट्रोल पंप के साथ-साथ लगा होता है। पूर्व निर्धारित अनुपात में पेट्रोल के साथ-साथ तेल की निकासी हेतु एक नोजल प्रचालित किया जाता है।

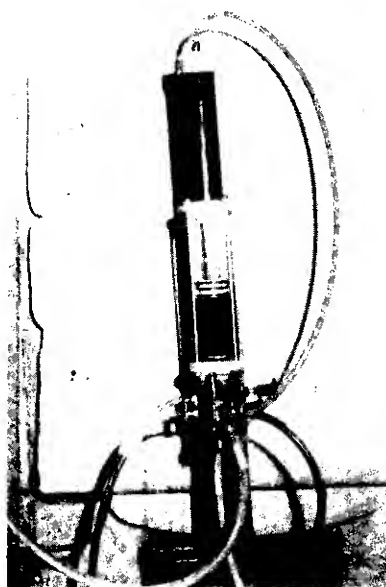
[फा. सं. डब्ल्यू एम-21(162)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4184.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of volumetric oil dispensing pump (mechanical type) of "REW 02" series with brand name "2 T Attachment" (herein referred to as the said model), manufactured by M/s. Rajendra Engineering Works, 10, Sarang Street, Mumbai-400 003 and which is assigned the approval mark IND/09/05/865;



In addition to sealing the stamping plate sealing shall also be done to prevent the opening of the machine for fraudulent practices.

The said model (see the figure given below) is a meter of pneumatically operated liquids (other than water), consisting of one storage tank and a measuring unit i.e. a graduated jar assembly, of 300ml capacity with smallest division of 10ml mounted by the side of the petrol pump. A nozzle is operated to discharge the oil along with the petrol in a pre-determined fixed ratio.

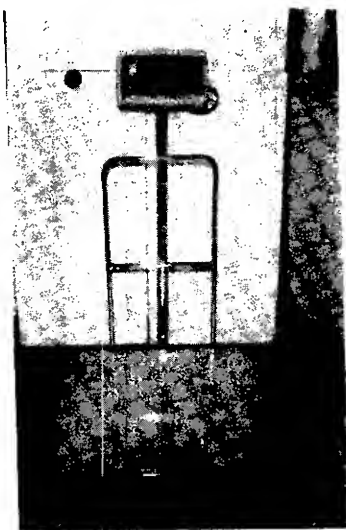
[F. No. WM-21(162)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4185.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स लिओट्रोनिक स्केल्स प्राइवेट लिमिटेड, 47 हाइड मार्किट, अमृतसर-143001 पंजाब द्वारा उच्च यथार्थता (यथार्थता वर्ग-II) वाले "ई सी एस 301" शृंखला के अंकक सूचन सहित अस्पृचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "लिओ" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/436 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सेल आधारित तोलन उपकरण (प्लेटफार्म प्रकार का) है। इसकी अधिकतम क्षमता 300 कि.ग्रा. है और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 20 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टैम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10000 तक के रेंज में सत्यापन मान (एन) अन्तराल सहित 50 कि. ग्रा. से अधिक और 1000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

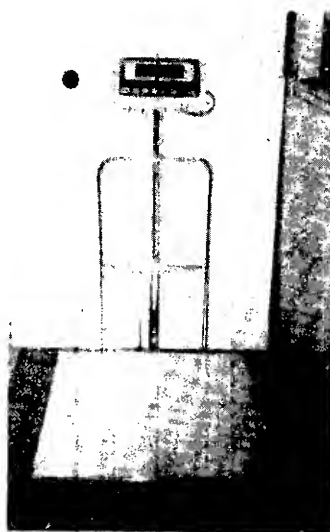
[फा. सं. डब्ल्यू एम-21(6)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4185. —Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "ECS-301" series of high accuracy (Accuracy class-II) and with brand name "LEO" (hereinafter referred to as the said Model), manufactured by M/s. Leotronics Scales Private Limited, 47, Hide Market, Amritsar-143 001 and which is assigned the approval mark IND/09/2005/436;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 300 kg. and minimum capacity of 1Kg. The verification scale interval (e) is 20g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. and up to 1000Kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

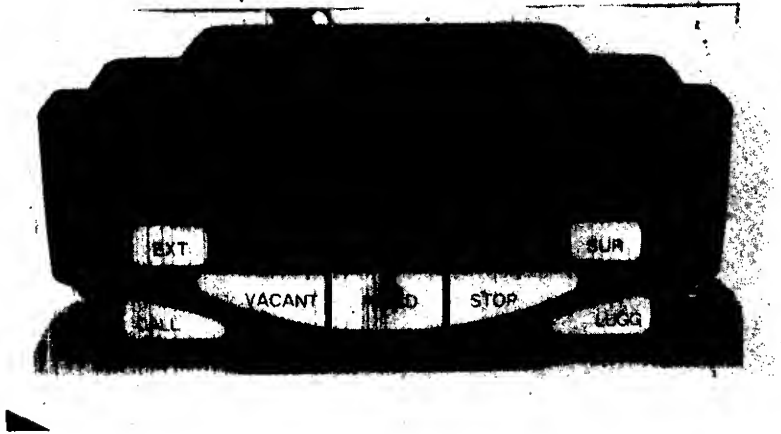
[F. No. WM-21(6)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4186.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स कोरस (इंडिया) लिमिटेड, 114 शाह एण्ड नाहर इंडस्ट्रियल इस्टेट, काशी, डॉ. ई. मोसीस रोड, वली, मुम्बई-400018, महाराष्ट्र द्वारा निर्मित अंकक सूचना सहित जिसमें दूरी भी सम्मिलित है, टैक्सी मीटर "वट्टा-21 सी" शृंखला के मॉडल का, जिसके ब्रांड का नाम "कोरस" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/356 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल "टैक्सी मीटर" समय और दूरी मापने वाला उपकरण है जो निरंतर रूप से योग करता है और यात्रा के हर क्षण किराया, यात्री द्वारा किसी पब्लिक वाहन के द्वारा पूरी की गई दूरी के कार्य के लिए संदेय प्रभार और प्राधिकृत टैरिफ के अनुसार किसी निश्चित गति से नीचे, अनुपूरक प्रभारों से स्वतंत्र और अधियोग की गई किसी समयवधि के लिए संदेय प्रभार उपदर्शित करता है। मीटर की पढ़त, प्रकाश उत्सर्जक डायोड (एल ई डी) के सात खंडों द्वारा उपदर्शित की जाती है और विद्युत प्रदाय, 9 वोल्ट-16 वोल्ट है। मीटर का 'के' फेक्टर, 650 पल्स/कि.मी. है।

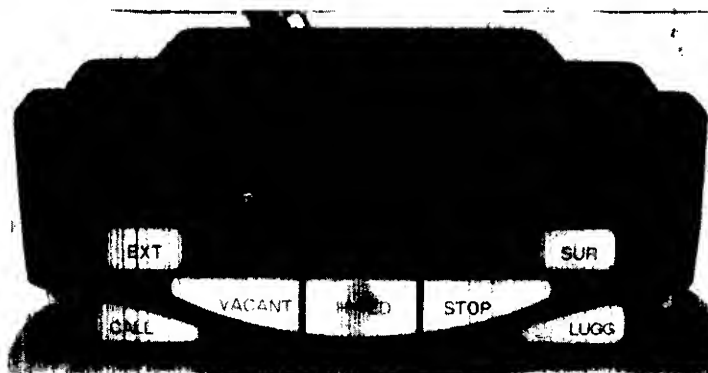
[फा. सं. डब्ल्यू एम-21(80)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4186.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of "Taxi Meter" with digital indication incorporated with a distance (hereinafter referred to as the Model) of "WATTA-21C" series with brand name "Kores" manufactured by M/s Kores (India) Limited, 114, Shah and Nahar Industrial Estate, Off. Dr. E. Moses Road, Worli, Mumbai-400018, Maharashtra and which is assigned the approval mark IND/09/2005/356;



The said Model "Taxi meter" is a time and distance measuring instruments, instrument which totalizes continuously and indicate the fare, at any moment of journey, the charges payable by the passenger of a public vehicle as function of the distance traveled and below a certain speed and the length of the time occupied, independent of supplementary charges according to the authorized tariffs. The reading of the meter is indicated by seven segment Light Emitting Diode (LED) and power supply is DC 9V-16V. The 'K' factor of the meter is 650 pulses/kilometer.

[F. No. WM-21(80)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4187.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कोरस (इंडिया) लिमिटेड, 114 शाह एण्ड नाहर इंडस्ट्रियल इस्टेट, काशी, डॉ. ई. मोसीस रोड, वली, मुम्बई-400018, महाराष्ट्र द्वारा निर्मित अंकक सूचना सहित जिसमें दूरी भी सम्मिलित है, टैक्सी मीटर "यू-2" श्रृंखला के मॉडल का, जिसके ब्रांड का नाम "कोरस" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन/09/05/355 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल "टैक्सी मीटर" समय और दूरी मापने वाला उपकरण है जो निरंतर रूप से योग करता है और यात्रा के हर क्षण किराया, यात्री प्रभार द्वारा किसी पब्लिक वाहन के द्वारा पूरी की गई दूरी के कार्य के लिए संदेय और प्राधिकृत टैरिफ के अनुसार किसी निश्चित गति से नीचे, अनूपूरक प्रभारों से स्वतंत्र और अधियोग की गई किसी समयावधि के लिए संदेय उपदर्शित करता है। मीटर की पढ़त, प्रकाश उत्सर्जक डायोड (एल ई डी) के सात खंडों द्वारा उपदर्शित की जाती है और विद्युत प्रदाय, 8 वोल्ट-16 है। मीटर का 'के' फेक्टर, 1400 पल्स/कि.मी. है।

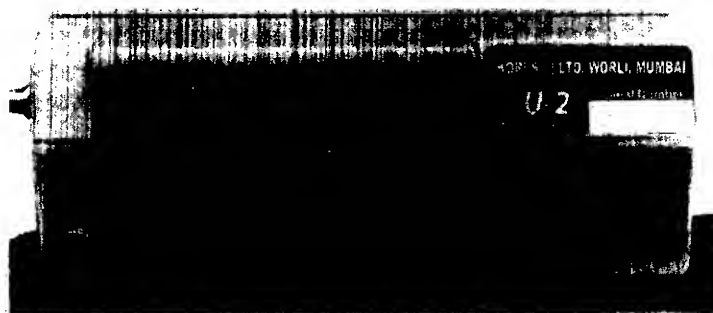
[फा. सं. डब्ल्यू एम-21(80)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4187.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure give below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of "Taxi Meter" with digital indication incorporated with a distance (hereinafter referred to as the Model) of "U-2" series with brand name "Kores" manufactured by M/s Kores (India) Limited, 114, Shal and Nahar Industiral Estate, Off. Dr. E. Moses Road, Worli, Mumbai-400018, Maharastra and which is assigned the approval mark IND/09/2005/355;



The said Model "Taxi Meter" is a time and distance measuring instruments, instrument which totalizes continuously and indicate the fare, at any moment of journey, the charges payable by the passenger of a public vehicle as function of the distance traveled and below a certain speed and the length of the time occupied, independent of supplementary charges according to the authorized tariffs. The reading of the meter is indicated by seven segment Light Emitting Diode (LED) and power supply is DC 8V-16V. The 'K' factor of the meter is 1400 pulses/kilometer.

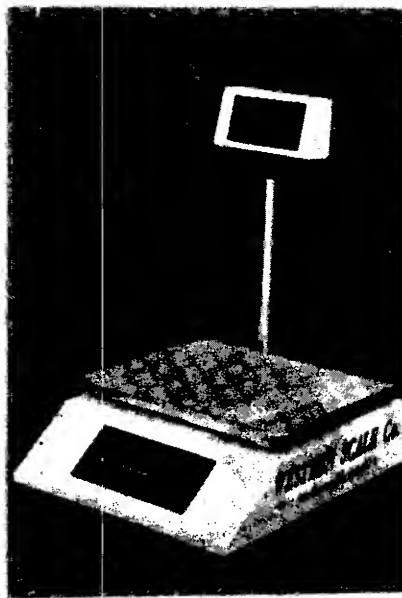
[F. No. WM-21(80)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4188.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स वेस्टन स्केल कं., शिवाजी नगर, साराकुण्डला-364575, गुजरात द्वारा निर्मित माध्यम यथार्थता (यथार्थता वर्ग 3) वाले "रिलायंस" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "रिलायंस" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी /09/2005/347 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सेल आधारित (टेबल टॉप प्रकार का) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 20 कि.ग्रा. है और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंदी भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन माप मान अन्तराल (एन) और 5 ग्राम या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन माप मान अन्तराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^0 या 2×10^0 या 5×10^0 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

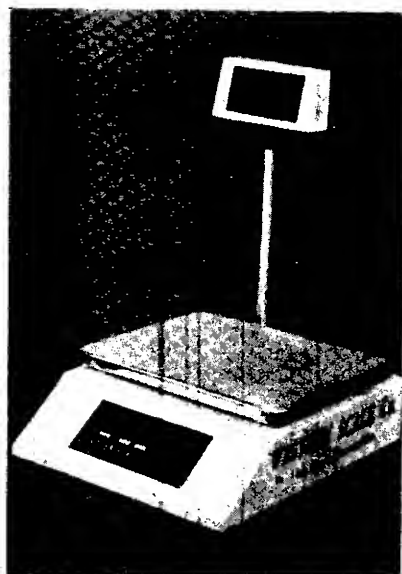
[फा. सं. डब्ल्यू एम-21(374)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4188. —Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of "RELINCE" series of medium accuracy (Accuracy class-III) and with brand name "RELINCE" (hereinafter referred to as the said Model), manufactured by M/s. Weston Scale Co., Shivaji Nagar, Savarkundla-364515 Gujarat and which is assigned the approval mark IND/09/2005/347:



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 20 kg. and minimum capacity of 40 g. The verification scale interval (e) is 2 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity, up to 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2 g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

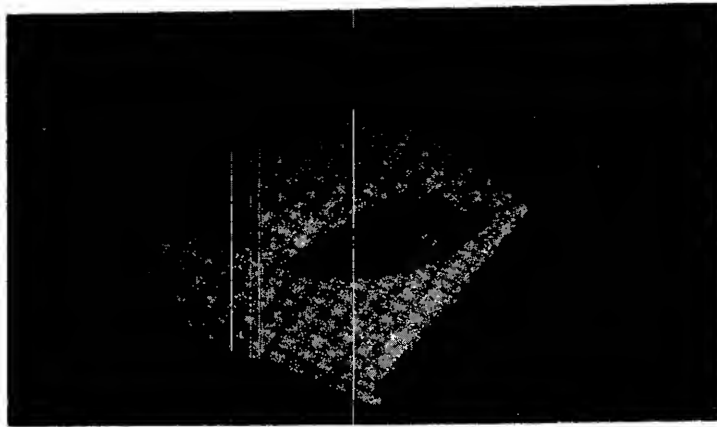
[F. No. WM-21(374)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4189.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेस्टन स्केल कं., शिवाजी नगर, साराकुण्डला-364575, गुजरात द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "रिलायंस" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "रिलायंस" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन /09/2005/348 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सेल आधारित (प्लेटफार्म प्रकार का) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 500 कि.ग्रा. है और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी समग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन माप मान अन्तराल (एन) सहित 50 कि. ग्रा. से अधिक 10,000 तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

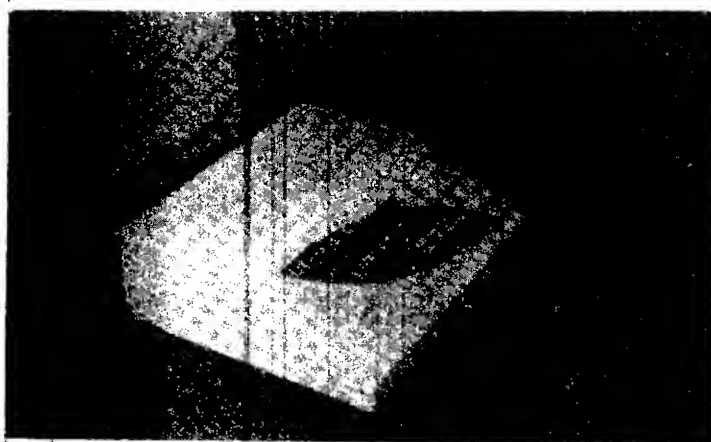
[फ. सं. डब्ल्यू एम-21(374)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4189.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "RELIENCE" series of high accuracy (Accuracy class-II) and with brand name "RELIENCE" (hereinafter referred to as the said Model), manufactured by M/s. Weston Scale Co., Shivaji Nagar, Savarkundla-364515 Gujarat and which is assigned the approval mark IND/09/2005/348;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500 Kg. and minimum capacity of 1Kg. The verification scale interval (e) is 50g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and upto 1000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. more and with 'e' value of 1×10^k , 2×10^k or 5×10^k where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

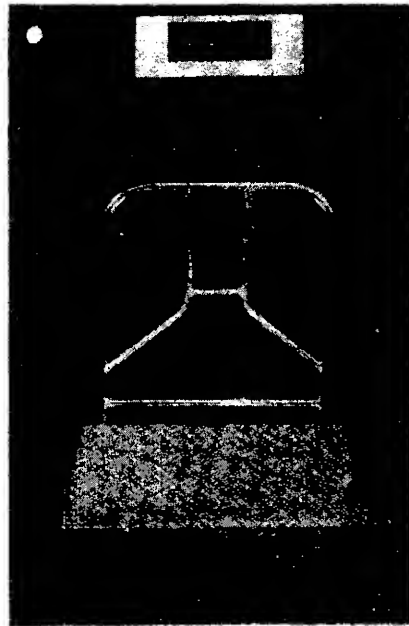
[F. No. WM-21(374)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का.आ. 4190.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सैमसुंग इलेक्ट्रॉनिक वेजिंग सिस्टम, डांगे निवास, अशोक चित्र मंदिर के पास, पिपरीगांव, पुणे द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एस ई डब्ल्यू एस-डब्ल्यू बी-पी सी" श्रृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (तुला चौकी के लिए संपरिवर्तन किट) जिसके ब्रांड का नाम "सैमसुंग" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2003/502 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जासे और प्रकाशित करती है।



उक्त मॉडल एक विकृत स्ट्रेन गेज प्रकार का भार सेल पर आधारित एक अस्वचालित तोलन उपकरण (तुला चौकी के लिए संपरिवर्तन किट) है। इसकी अधिकतम क्षमता 30000 कि.ग्रा. और न्यूनतम क्षमता 100 कि. ग्रा. है। सत्यापन मापमान अन्तराल 5 कि. ग्रा. है। इसमें एका आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाप्र है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्ट्याम्पिंग प्लेट के मुद्रांकन के अतिरिक्त, कपटपुर्ण व्यवहार से मशीन को खोलने से रोकने के लिए मुहरबन्द भी किया जाता है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या अधिक के "ई" मान के लिए 500 से 1000 तक के रेंज में सत्यापन मान अन्तराल (एन) 5 टन से 100 टन की रेंज में अधिकतम क्षमता वाले हैं और "ई" तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के सन्तुल्य हैं।

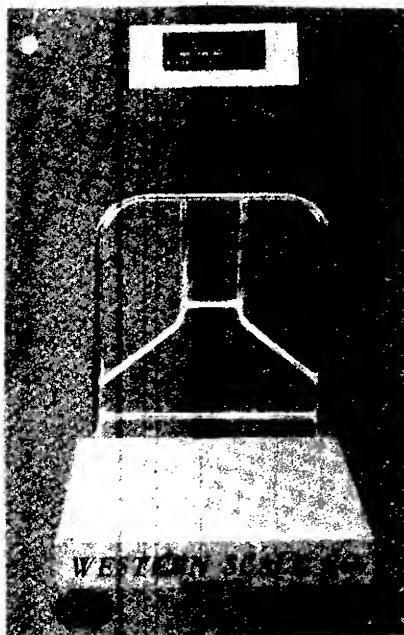
[फा. सं. डब्ल्यू एम-21(324)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4190.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Conversion kit for weighing bridge) with digital indication of "SEWS-WB-PC" series of medium accuracy (Accuracy class-III) and with brand name "SAMSUNG" (herein referred to as the said Model), manufactured by M/s. Samsung Electronic Weighing System, Dange Niwas, Behind Ashok Chitra Mandir, Pimprigaon, Pune and which is assigned the approval mark IND/09/2003/502;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Conversion kit for weighing bridge) with a maximum capacity of 30000 Kg and minimum capacity of 100 kg. The verification scale interval (e) is 5 Kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 5 tonne to 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 Kg or more and with 'e' value of 1×10^4 , 2×10^4 or 5×10^4 5, k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(324)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4191.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स पुगस्केल प्राइवेट लिमिटेड, दुकान नं. 13 और 15, मार्केट नं. 5, एन आई टी फरीदाबाद, हरियाणा द्वारा निर्मित माध्यम यथार्थता (यथार्थता वर्ग III) वाले "सी एच डब्ल्यू" शृंखला के सदृश अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म मरीन स्टील यार्ड प्रकार) के मॉडल का, जिसके ब्रांड का नाम "चुग" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/366 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक यांत्रिक स्टील यार्ड प्रकार लीवर आधारित अस्वचालित (प्लेटफार्म मशीन प्रो वेट प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 200 ग्रा. है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंदी भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन माप मान अंतराल (एन) 50 कि.ग्रा. से अधिक 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^5 , 2×10^5 , 5×10^5 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

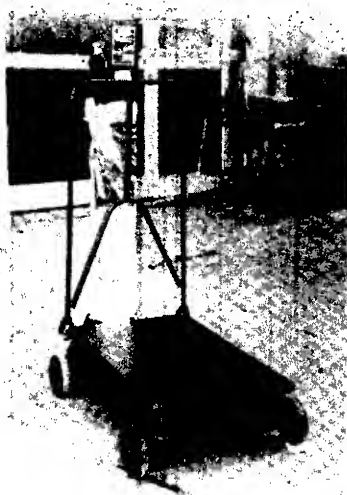
[फ़.सं. डब्ल्यू एम-21(347)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the, 24th October, 2005

S.O. 4191.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Platform machine-Steelyard Type) weighing instrument with analogue indication of "CHW" series of medium accuracy (Accuracy class-III) and with brand name "CHUGH" (herein referred to as the said Model), manufactured by M/s. Chugh Scale Private Limited, Shop Nos. 13 and 15, Market No. 5, NIT Faridabad, Haryana and which is assigned the approval mark IND/09/05/366;



The said model is a mechanical steelyard type liver based non-automatic weighing instrument (Platform machine-Pro Weight Type) with a maximum capacity of 1000 kg. and minimum capacity of 4 kg. The verification scale interval (e) is 200 g.

In addition to sealing the stamping plate, sealing is also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

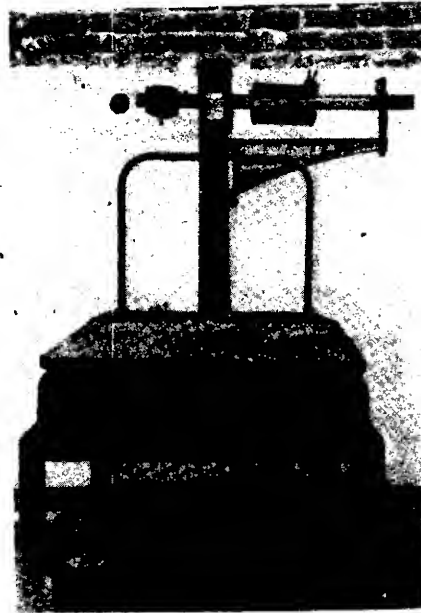
[F. No. WM-21(347)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4192.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स 'चुगस्केल प्राइवेट लिमिटेड, दुकान नं. 13 और 15, मार्केट नं. 5, एन आई टी फरीदाबाद, हरियाणा द्वारा निर्मित माध्यम यथार्थता (यथार्थता वर्ग III) वाले "सी एल डब्ल्यू" श्रृंखला के सदृश अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म मशीन प्री वेट प्रकार) के मॉडल का, जिसके ब्रांड का नाम "चुग" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन /09/2005/365 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक यांत्रिक स्टील यार्ड प्रकार लीवर आधारित अस्वचालित (प्लेट फार्म मशीन प्री वेट प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 300 कि.ग्रा. है और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 100 ग्रा. है।

स्टैम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन के लिए कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल निर्माण किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान मान अंतराल (एन) 50 कि. ग्रा. से अधिक 1000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1^* \times 10^*$, $2^* \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

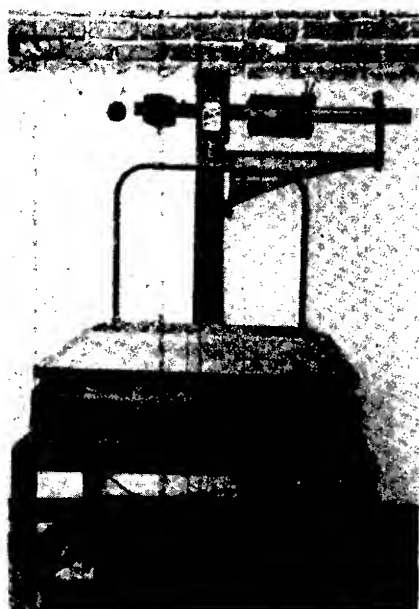
[फा. सं. डब्ल्यू एम-21(347)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4192 —Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Platform machine-Pro Weight type) weighing instrument with analogue indication of "CLW" series of medium accuracy (accuracy class-III) and with brand name "CHUGH" (herein referred to as the said Model), manufactured by M/s. Chugh Scale Private Limited, Shop No. 13 and 15, Market No. 5, NIT Faridabad, Haryana and which is assigned the approval mark IND/09/05/365;



The said model is a mechanical steelyard type liver based non-automatic weighing instrument (Platform machine-Pro Weight Type) with a maximum capacity of 300 kg and minimum capacity of 2 kg. The verification scale interval (e) is 200 g.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 1000 kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

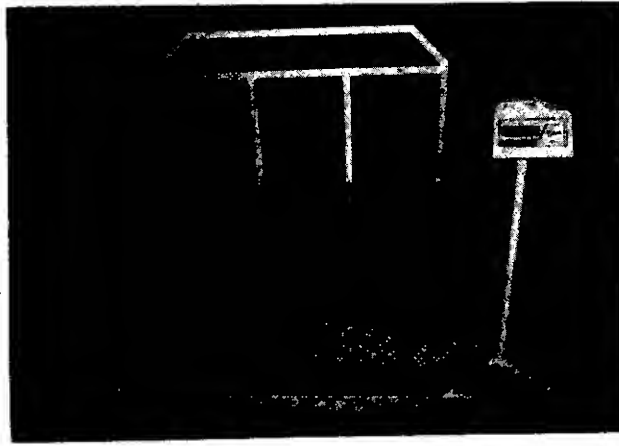
[F. No. WM-21(347)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4193.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जैमिनी डिजिटल स्केल्स, 72 धर्मापुरम रोड, तिरुपुर-641604, तमिलनाडु द्वारा निर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "जी टी" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टोप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "रायल" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/310 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त माडल एक विकृति गेज प्रकार का लोड सैल आधारित तोलन उपकरण (टेबल टोप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है। जिसका शत प्रतिशत व्ययकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्ट्रांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित माडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि.ग्रा. तक "ई" मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

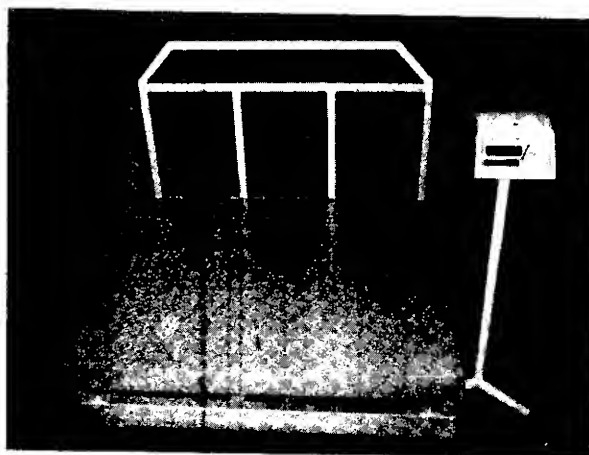
[फा० सं० डब्ल्यू एम-21 (312)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4193.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "GT" series of high accuracy (Accuracy class-II) and with brand name "ROYAL" (hereinafter referred to as the said model), manufactured by M/s Gemini Digital Scales, 72, Dharmapuram Road, Tirupur-641 604, Tamil Nadu and which is assigned the approval mark IND/09/2005/310;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz. alternative current power supply.

In addition to scaling the stamping plate, scaling shall also be done to prevent from the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

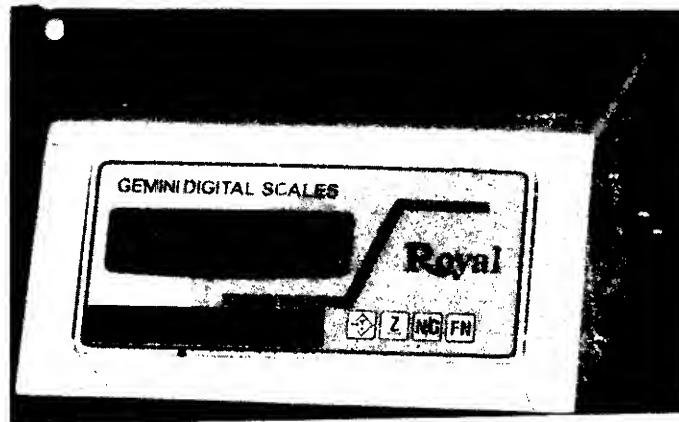
[F. No. WM-21(312)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्तूबर, 2005

का. आ. 4194.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जैमिनी डिजिटल स्केल्स, 72 धर्मापुरम रोड, तिरुपुर-641604, तमिलनाडु द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "जी पी" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "रॉयल" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/311 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सैल आधारित तोलन उपकरण (प्लेटफार्म प्रकार का) है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 200 ग्रा. है। इसमें एक आधे टोलन युक्ति है जिसका प्रतिशत व्यवकलनात्मक धारित आधेतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उक्त मॉडल 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

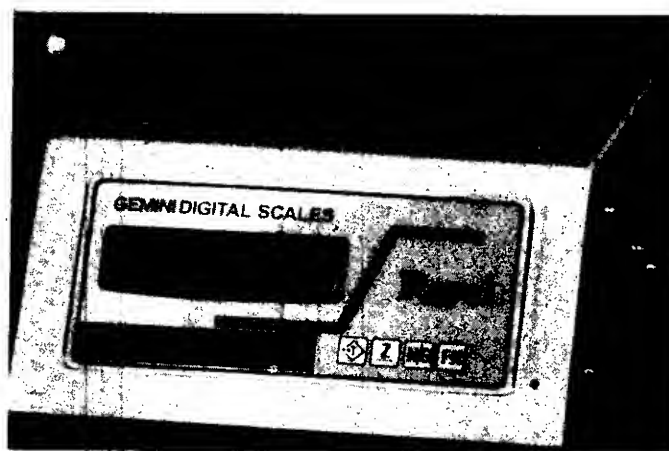
[फा. सं. डब्ल्यू एम-21 (31.12.2004)]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4194.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model non-automatic weighing instrument (Platform type) with digital indication of "G" series of medium accuracy (Accuracy class-III) and with brand name "ROYAL" (hereinafter referred to as the said model), manufactured by M/s Gemini Digital Scales, 72, Dharmapuram Road, Tirupur-641604, Tamil Nadu and which is assigned the approval mark IND/09/05/311;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg. and minimum capacity of 4 kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz. alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent from opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 5000 kg with verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

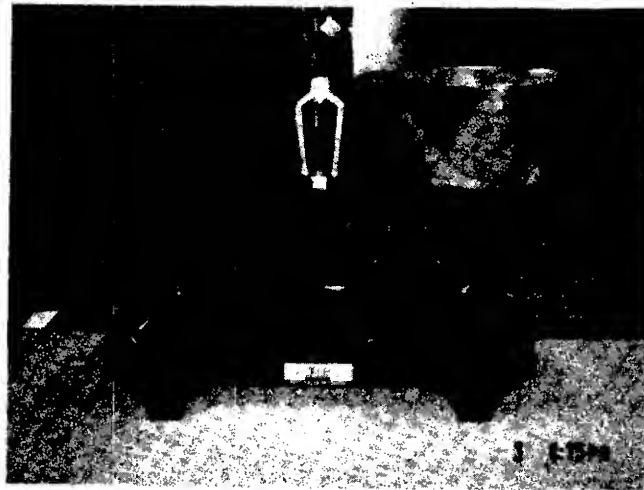
[F. No. WM-21(312)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4195.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ऊपा स्केल्स एसोसिएट्स, सी-21, साइट 'ए' सिकंदरा, आगरा-282004, उत्तर प्रदेश द्वारा निर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "ऊपा" है (जिसे उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/140 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल (उपर दी गई आकृति देखें) एक काउंटर मशीन है। इसकी अधिकतम क्षमता 10 कि.ग्रा. है। यह लीवर सिद्धांत पर कार्य करता है और यह समबाहु तोलन उपकरण है।

स्टॉपिंग प्लेट को सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 50 ग्रा. से 50 कि. ग्राम तक की अधिकतम की रेंज के हैं।

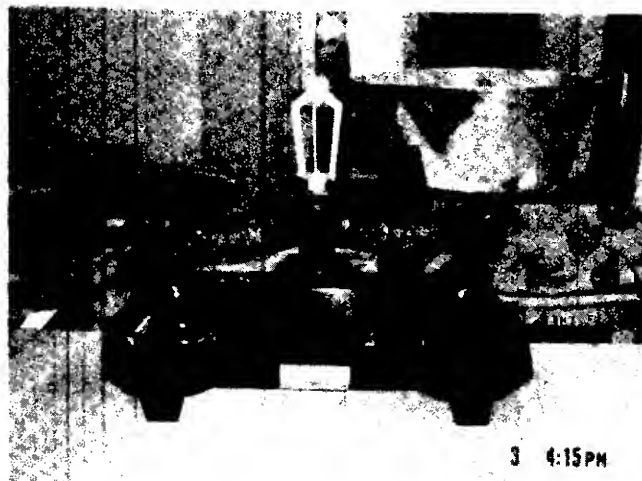
[फा. सं. डब्ल्यू एम-21 (184)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4195.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of Counter Machine with brand name "USHA" (herein referred to as the said model), manufactured by M/s Usha Scales Associates, C-21, Site 'A', Sikandra, Agra-28 2004, Uttar Pradesh and which is assigned the approval mark IND/09/05/140;



The said model (See the figure given above) is a counter machine with maximum capacity of 10 Kg. It is working on the principle and is an equal arms weighing instruments.

In addition to sealing the stamping plate, scaling shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 500g to 50 Kg. manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

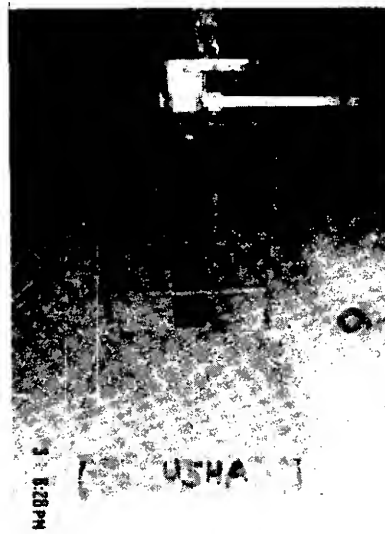
[F. No. WM-21(184)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4196.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ऊपा स्केल्स एसोसिएट्स, सी-21, साइट 'ए' सिकंदरा, आगरा-282004, उत्तर प्रदेश द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ऊपा" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म मशीन प्रोवेट प्रकार) के मॉडल का, जिसका ब्रांड का नाम "ऊपा" है (जिसे उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/141 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक यांत्रिक प्रकार का लीवर आधारित अस्वचालित (प्लेटफार्म मशीन प्रोवेट प्रकार) का तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. है और न्यूनतम क्षमता 2 कि. ग्रा. और मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) का है। सत्यापन मापमान अन्तराल (ई) का मान 100 ग्रा. है।

स्टाम्पिंग प्लेट के सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन की माप मान अंतराल (एन) सहित 50 कि. ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (184)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4196.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of Non-automatic weighing instrument (Platform machine pro-weight type) (herein referred to as the said model), belonging to medium accuracy class (Accuracy class-III) of series 'USHA' and with brand name "USHA" manufactured by M/s. Usha Scales Associates, C-21, Site 'A', Sikandra, Agra-282004, Uttar Pradesh and which is assigned the approval mark IND/09/2005/141;



The said model is a mechanical type lever based non automatic weighing instrument (Platform machine Pro-weight type) of maximum capacity of 1000 kg. minimum capacity 2 kg., and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval 'e' is 100g.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 50kg to 5000 kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(184)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2005

का. आ. 4197.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ऊपा स्केल्स एसोसिएट्स, सी-21, साइट 'ए' सिकंदरा, आगरा-282004, उत्तर प्रदेश द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ऊपा" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (स्टीलयाड प्रकार का यांत्रिक प्लेट फार्म मशीन) के मॉडल का, जिसके ब्रांड का नाम "ऊपा" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/142 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक यांत्रिकी प्रकार का लोवर आधारित अस्वचालित (यांत्रिक प्लेट फार्म मशीन स्टीलयाड प्रकार) का तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. और न्यूनतम क्षमता 4 ग्रा. और मध्यम यथार्थता वर्ग -III का है। सत्यापन मापमान अंतराल (ई) का मान 200 ग्रा. है।

स्टॉपिंग प्लेट के सीलबंद करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

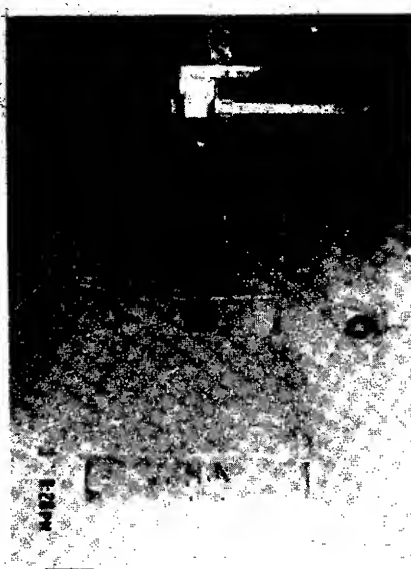
[फा. सं. डब्ल्यू एम-21 (184)/2004]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2005

S.O. 4197.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of non-automatic weighing instrument (Mechanical Platform machine-with steelyard type) (herein referred to as the said Model) belonging to medium accuracy class (Accuracy class-III) of series "USHA" and with brand Name "USHA" manufactured by M/s. Usha Scales Associates, C-21, Site 'A', Sikandra, Agra-282004 Uttar Pradesh and which is assigned the approval mark IND/09/05/142:



The said Model is a mechanical type lever based non automatic weighing instrument (Mechanical Platform machine-Steelyard type) of maximum capacity of 1000 kg, minimum capacity 4 kg, and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval 'e' is 200g.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity is the range of 50kg to 5000 kg and with number of verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(184)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

(भारतीय मानक ब्यूरो)

नई दिल्ली, 31 अक्टूबर, 2005

का.आ. 4198.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(को)में संशोधन किया गया/किये गए हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 2483 : 1986 टिकट बोर्ड की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन की संख्या 4, सितम्बर, 2005	31 अक्टूबर, 2005

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों, अहमदाबाद, बंगलौर, भोपाल भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. सी एच डी 15/आई एस 2483]

डॉ. यू. सी. श्रीवास्तव, वैज्ञानिक 'ई' निदेशक एवं प्रमुख (रसायन)

BUREAU OF INDIAN STANDARDS

New Delhi, the 31st October, 2005

S.O. 4198.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and title of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
I.	IS 2483 : 1986 Specification for ticket board (First Revision)	Amendment No. 4, September, 2005	31 October, 2005

Copy to those Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CHD 15/IS-2483]

Dr. U. C. SRIVASTAVA, Scientist 'E' Director & Head (Chemical)

नई दिल्ली, 31 अक्टूबर, 2005

का.आ. 4199.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(को)में संशोधन किया गया/किये गए हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 14364 : 1996 कवार्टरनरी अमोनियम यौगिक आधारित सतह मार्जक, द्रव—विशिष्ट	संशोधन संख्या नं. 2, अगस्त 2005	31 अगस्त, 2005

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुंबई तथा शाखा कार्यालयों, अहमदाबाद, बंगलौर, भोपाल भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं . सी एच डी 25/आई एस 14364]

डॉ. यू. सी. श्रीवास्तव, वैज्ञानिक 'ई' निदेशक एवं प्रमुख (रसायन)

New Delhi, the 31st October, 2005

S.O. 4199.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 14364 : 1996 Quaternary Ammonium Compound based Surface Cleaner, Liquid—Specification	Amendment No. 2. August, 2005	31 August, 2005

Copy of this Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CHD 25/IS 14364]

Dr. U. C. SRIVASTAVA, Scientist 'E' Director & Head (Chemical)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 8 नवम्बर, 2005

का. आ. 4200.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (i) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2507 तारीख 5 जुलाई, 2005, जो भारत के राजपत्र तारीख, 16 जुलाई, 2005, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मुद्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से गुजरात राज्य में मुद्रा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 31 अगस्त, 2005, को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, इस मंत्रालय के सहमति पत्र सं. आर - 31015/7/03 ओ.आर-II दिनांक 25/11/2004 द्वारा लगाई गई शर्तों के अधीन सभी वित्तीयों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : पीसागिन		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
1	2	3	हेक्टेयर	एयर	वर्ग मीटर
1. गोला		13	0	01	13
		14	0	06	29
		28(स.भूमि)	0	01	27
		26(स.भूमि)	0	08	44
		54	0	08	70
		55	0	00	16
		56	0	12	04
		57	0	33	12
		76	}	0	10
		76मिन			
		86	0	20	77
		105(स.बरड़ा)	0	15	08
		106	0	00	68
		100	0	01	10
		99	0	00	11
		272	0	01	05
		269	0	01	40
		298(पी.डब्ल्यू.डी.सड़क)	0	04	02
		421	0	00	20
		422	0	07	17
		424(स.बरड़ा)	0	03	63
		611(स.बरड़ा)	0	00	25
		620	}	0	00
		620मिन(स.भूमि)			
		608	0	00	65
		603(स.रास्ता)	0	00	28
		592	0	00	78
		593	}	0	00
		593मिन (स.भूमि)			
		599	0	01	84
		624(स.रास्ता)	0	00	13
		792	0	01	26
		804(स.भूमि)	0	02	18
		812	0	00	87
		814	0	00	87
		816	0	00	40
		821	0	00	30
		822	0	00	50
		900	0	00	36

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तहसील : पीसागन		जिला : अजमेर	राज्य : राजस्थान			
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल			
			हेक्टेयर	एयर	वर्ग मीटर	
1	2	3	4	5	6	
1. गौला (जारी...)		1163	0	00	99	
		1164	0	07	34	
		1176(स.भूमि)	0	00	45	
		1299	0	00	70	
		1300	0	00	99	
		1301	0	00	83	
		1305	0	01	01	
		1311	0	01	55	
		1239(स.भूमि)	}	0	05	61
		1239मिन				
2. सामला		5013	0	00	83	
		5018	0	00	94	
		5021	0	00	28	
		5134	}	0	00	21
		5134मिन				
		5123मिन	0	00	45	
		5117	0	00	53	
		5116	0	00	74	
		5125(स.रास्ता)	0	01	11	
		5127	0	00	42	
		4535	}	0	00	81
		4535मिन				
		4545	0	01	12	
		4524	0	00	70	
		4529	0	00	42	
		4546	}	0	00	30
		4546/1				
	4590	}	0	00	82	
	4590मिन (स.बरड़ा)					
3. जेठना		4588	0	12	34	
		4591	0	00	93	
		4602	0	00	65	
		4613	0	00	37	
		4620मिन	}	0	00	39
		4620/1				
		4620मिन	}	0	00	97
		4325				
		3874	0	02	10	
		3871	0	01	14	
		3870	0	00	55	
		3867	0	00	15	

तहसील : पीसाँगन		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गोंव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
3.	जेठना (जारी...)	3865	0	01	11
		3843	0	01	46
		3840(स.भूमि)	0	00	28
		3836	0	01	77
		3745(स.रास्ता)	0	00	24
		3696	0	00	46
		3695	0	01	32
		2922	0	00	83
		3651(स.भूमि)	0	00	43
		3649	0	00	11
		3573(स.रास्ता)	0	00	22
		3565	0	00	37
		3563	0	00	66
		2974	0	01	11
		2976	0	00	78
		2992	}	0	00
		2992/1			
		2985	}	0	00
		2985मिन			
		2986	0	00	40
		3019(पी.डब्ल्यू.डी.सड़क)	}	0	00
		2950(पी.डब्ल्यू.डी.सड़क)			
		2806	0	00	29
		2797	0	00	09
		2799	0	00	59
		2787(स.भूमि)	0	00	37
		3068	0	00	97
		3065	0	04	09
		3078	}	0	00
		3078मिन			
		3085	0	00	84
		3313(स.रास्ता)	0	01	07
		3275	0	00	31
		3269/5412	0	00	90
		3267	0	00	32
		3263	0	00	64
		3259	0	00	90
		3240	0	01	15
		3239	0	01	65
		3238	0	03	67
4.	मकरेड़ा	2448	0	03	21

तहसील : पीसांगन		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
1	2	3	हेक्टेयर	एयर	वर्ग मीटर
			4	5	6
4.	मकरेड़ा (जारी...)	2434	0	04	32
		2431	0	00	90
		2427	0	01	03
		2409	0	01	13
		2425(स.रास्ता)	0	00	46
		2475	0	00	57
		2476	0	00	64
		2477	0	01	37
		2480	0	00	61
		2496	0	00	13
		2506	0	00	21
		2510	0	00	21
		2513	0	00	44
		2515	0	02	06
		2523(स.रास्ता)	0	00	36
		2306	0	01	02
		2305	0	00	49
		2301	0	01	34
		1611	0	00	70
		1580(स.भूमि)	0	02	70
		1513	0	07	13
		1511(स.भूमि)	0	00	31
		1510(स.भूमि)	0	00	75
		1508(स.बाला)	0	01	32
		1484(स.बरड़ा)	0	02	09
		1462	0	02	06
		1457	0	01	45
		1438	0	00	67
		1424	0	00	08
		1425	0	00	38
		1410	0	00	52
		1392	0	00	54
		1387	0	00	76
		1386	0	00	16
		1385	0	00	56
		1384	0	00	31
		1383	0	00	44
		1221(स.रास्ता)	0	01	00
		1095	0	32	76
		1093	0	00	82
		1097	0	00	10

तहसील : पीसाँगन		जिला : अजमेर		राज्य : राजस्थान	
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
5.	अर्जुनपुरा खाससा	4	0	01	75
		3	0	00	26
		8	0	00	72
		18	0	00	62
		70	0	07	30
		88	0	00	15
		90	0	01	89
6.	शिवपुरा	138	0	04	25
		138मिन(स.भूमि)			
		138मिन	0	00	37
		140(रिल्वे विभाग)			
		147मिन	0	00	73
		147मिन			
		147मिन			

[फा. सं. आर-31015/57/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 8th November 2005

S. O. 4200.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2507 dated the 05th July, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 16th July, 2005, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from Mundra in the State of Gujarat to Delhi through Mundra-Delhi Petroleum Product Pipeline by Hindustan Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 31st August, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter no. R-31015/7/03 OR-II dated 25-11-2004.

SCHEDULE

Tehsil : PISANGAN		District : AJMER		State : RAJASTHAN		
Sr No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	05	06	
1. GOLA		13	0	01	13	
		14	0	06	29	
		28(G/L)	0	01	27	
		26(G/L)	0	08	44	
		54	0	08	70	
		55	0	00	16	
		56	0	12	04	
		57	0	33	12	
		76	}	0	10	36
		76Min				
		86	0	20	77	
		105(G/LBarda)	0	15	08	
		106	0	00	68	
		100	0	01	10	
		99	0	00	11	
		272	0	01	05	
		269	0	01	40	
		298(P.W.D. Road)	0	04	02	
		421	0	00	20	
		422	0	07	17	
		424(G/L Barda)	0	03	63	
		611(G/L Barda)	0	00	25	
		620	}	0	00	72
		620Min(G/L)				
		608	0	00	65	
		603(G/L Cart Track)	0	00	28	
		592	0	00	78	
		593	}	0	00	61
		593Min (G/L)				
		599	0	01	84	
		624(G/L Cart Track)	0	00	13	
		792	0	01	26	
		804(G/L)	0	02	18	
	812	0	00	87		
	814	0	00	87		
	816	0	00	40		
	821	0	00	30		
	822	0	00	50		
	900	0	00	36		

Tehsil : PISANGAN		District : AJMER		State : RAJASTHAN		
Sr No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq mtr.	
1	2	3	4	05	06	
1. GOLA (Contd...)		1163	0	00	99	
		1164	0	07	34	
		1176(G/L)	0	00	45	
		1299	0	00	70	
		1300	0	00	99	
		1301	0	00	83	
		1305	0	01	01	
		1311	0	01	55	
		1239(G/L)	}	0	05	61
		1239Min				
	2. SAMALA		5013	0	00	83
			5018	0	00	94
			5021	0	00	28
		5134	}	0	00	21
		5134Min				
		5123Min	0	00	45	
		5117	0	00	53	
		5116	0	00	74	
		5125(G/L Cart Track)	0	01	11	
		5127	0	00	42	
		4535	}	0	00	81
		4535Min				
		4545	0	01	12	
		4524	0	00	70	
		4529	0	00	42	
3. JETHANA		4546	}	0	00	30
		4546/1				
		4590	}	0	00	82
		4590Min (G/L Barda)				
		4588	0	12	34	
		4591	0	00	93	
		4602	0	00	65	
		4613	0	00	37	
		4620Min	}	0	00	39
		4620/1				
		4620Min	}	0	00	97
		4325				
		3874	0	02	10	
		3871	0	01	14	
		3870	0	00	55	
	3867	0	00	15		

Tehsil : PISANGAN		District : AJMER		State : RAJASTHAN	
Sr No	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	05	06
3. JET/HANA (Contd...)					
		3865	0	01	11
		3843	0	01	46
		3840(G/L)	0	00	28
		3836	0	01	77
		3745(G/L Cart Track)	0	00	24
		3696	0	00	46
		3695	0	01	32
		2922	0	00	83
		3651(G/L)	0	00	43
		3649	0	00	11
		3573(G/L Cart Track)	0	00	22
		3565	0	00	37
		3563	0	00	66
		2974	0	01	11
		2976	0	00	78
		2992	0	00	64
		2992/1			
		2985	0	00	34
		2985Min			
		2985	0	00	40
		3019(P.W.D.Road)	0	00	64
		2950(P.W.D.Road)			
		2806	0	00	29
		2797	0	00	09
		2799	0	00	59
		2787(G/L)	0	00	37
		3068	0	00	97
		3065	0	04	09
		3078	0	00	82
		3078Min			
		3085	0	00	84
		3313(G/L Cart Track)	0	01	07
		3275	0	00	31
		3269/5412	0	00	90
		3267	0	00	32
		3263	0	00	64
		3259	0	00	90
		3240	0	01	15
		3239	0	01	65
		3238	0	03	67
4. MAKRERA					
		2448	0	03	21

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Tehsil : PISANGAN		District : AJMER	State : RAJASTHAN		
Sr No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	05	06
4. MAKRERA (Contd...)		2434	0	04	32
		2431	0	00	90
		2427	0	01	03
		2409	0	01	13
		2425(G/L Cart Track)	0	00	46
		2475	0	00	57
		2476	0	00	64
		2477	0	01	37
		2480	0	00	61
		2496	0	00	13
		2506	0	00	21
		2510	0	00	21
		2513	0	00	44
		2515	0	02	06
		2523(G/L Cart Track)	0	00	36
		2306	0	01	02
		2305	0	00	49
		2301	0	01	34
		1611	0	00	70
		1580(G/L)	0	02	70
		1513	0	07	13
		1511(G/L)	0	00	31
		1510(G/L)	0	00	75
		1508(G/L Nala)	0	01	32
		1484(G/L Barda)	0	02	09
		1462	0	02	06
		1457	0	01	45
		1438	0	00	67
		1424	0	00	08
		1425	0	00	38
		1410	0	00	52
		1392	0	00	54
		1387	0	00	76
		1386	0	00	16
		1385	0	00	56
		1384	0	00	31
		1383	0	00	44
		1221(G/L Cart Track)	0	01	00
		1095	0	32	76
		1093	0	00	82
	1097	0	00	10	

Tehsil : PISANGAN		District : AJMER		State : RAJASTHAN		
Sr No	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	05	06	
5.	ARJUNPURA KHALSA	4	0	01	75	
		3	0	00	26	
		8	0	00	72	
		18	0	00	62	
		70	0	07	30	
		88	0	00	15	
		90	0	01	89	
		138	}	0	04	25
138Min(G/L)						
138Min						
6.	SHIVPURA	140(Railway Deptt.)	0	00	37	
		147Min	}	0	00	73
		147Min				
		147Min				

[No. R-31015/57/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 8 नवम्बर, 2005

का. आ. 4201.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2317 तारीख 24 जून, 2005, जो भारत के राजपत्र तारीख 02 जुलाई, 2005, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मुन्दा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से गुजरात राज्य में मुन्दा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 09 अगस्त, 2005, को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जा रहा है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, इस मंत्रालय के सहमति पत्र सं. आर - 31015/7/03-ओ.आर.-II दिनांक 25/11/2004 द्वारा लगाई गई शर्तों के अध्वधीन सभी विल्लंगनों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : नसीराबाद		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
1	2	3	हेक्टेयर	एयर	वर्ग मीटर
1. राजोसी					
		3426(स.नाला)	0	01	19
		3422/1	}	03	33
		3422/2			
		3429/1	}	00	31
		3429/2			
		3414/1	}	00	50
		3414/2			
		3327(स.नाला)	0	00	84
		3326	0	01	87
		3324	0	02	47
		3333	0	00	13
		3334	0	01	05
		3337	0	00	14
		3258	0	00	33
		3260	0	00	67
		3263	0	01	17
		3236(स.सड़क)	0	00	14
		3111	0	00	62
		3114/1	}	00	51
		3114/2			
		3108/1	}	00	93
		3108/2			
		3107/1	}	00	10
		3107/2			
		3104/1(स.पाल)	}	00	64
		3104/2			
		3122	0	00	83
		3123(स.मोरी)	0	00	22
		3124/4273	0	00	84
		3124/4272	0	00	20
		3081/1	}	00	33
		3081/2			
		3080	0	00	62
		3077	0	01	80
		3075	0	01	75
		2763/1	}	00	47
		2763/2			
		2757/1	}	00	64
		2757/2			

तहसील : नसीराबाद		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1. राजोसी (जारी...)	2753(स.रास्ता)		0	01	44
	2775/1(स.बरड़ा)		0	00	14
	2775/2				
	2815(स.पाल)		0	00	30
	2721		0	00	54
	2723		0	00	41
	2668		0	00	05
	2667(स.नाला)		0	00	49
	2664/4242(स.नाला)		0	00	24
	2666/4273		0	00	20
	2330/1		0	01	18
	2330/2				
	2335		0	00	98
	2324(पी.डब्ल्यू.डी.सड़क)		0	00	30
	2294		0	00	53
	1240		0	00	47
	1248		0	00	29
	1249		0	00	20
	1254		0	00	20
	1270		0	00	74
	2157		0	00	29
	2163		0	00	51
	2165		0	00	14
	2155(स.रास्ता)		0	00	13
	2070		0	00	32
	2073		0	00	42
	2140		0	00	61
	2139		0	01	03
	1441		0	00	13
	1452		0	02	54
	1462		0	01	56
	1463/1		0	01	34
	1463/2				
	1582		0	01	16
	1583		0	01	52
2. गादेरी	60(पी.डब्ल्यू.डी.सड़क)		0	00	16
	62(पी.डब्ल्यू.डी.सड़क)		0	00	24
	88(स.नाला)		0	01	21
	89मिन		0	00	78
	89मिन				
	91मिन		0	00	70
	91मिन				

तहसील : नसीराबाद		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गौँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
2.	गादेरी (जारी...)	103(स.बरड़ा)	0	01	05
3.	मोड़ी	ख.सं. 4 व 21 के बीच	0	00	05
		21	0	01	40
		20	}	0	00
		20मिन			
		20मिन			
		20मिन			
		20मिन	}	0	00
		38(स.भूमि)			
		38मिन			26
		24(ग्रा.पं.चारागाह)	0	01	75
		26	0	01	04
4.	लवेरा	721	0	00	88
		722	0	03	80
		725	0	18	71
		726(स.पत्थर)	0	02	20
		734(स.रास्ता)	0	00	52
		736(स.भूमि)	0	00	36
		744	0	00	20
		745	0	00	38
		758	0	01	54
		761	0	11	30
		803	0	00	18
		804(स.रास्ता)	0	00	16
		811	0	01	24
		815	0	00	29
		892	0	00	45
		889	0	00	78
		936	0	00	64
		939	0	02	25
		956	0	00	20
		990	0	00	50
		1525	0	00	31
		1516	0	00	27
		1513(स.रास्ता)	0	00	22
		1496	0	02	43
		1495(स.पाल)	0	00	42
		1492	0	01	02
		1439	0	04	26
		1442	0	01	57
		1443	0	01	06

तहसील : नसीराबाद		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
4.	लवेरा (जारी...)	1482	0	01	50
		1482/1639			
		1468(स.बरडा)	0	00	20
5.	रामपुरा अठिरान	375	0	00	21
		385	0	00	41
		384	0	00	21
		392	0	00	40
6.	जिलावड़ा	1326(स.रास्ता)	0	00	16
		1320	0	00	08
		1316	0	00	53
		1339	0	00	41
		1349(स.धोरा)	0	00	07
		1359	0	00	53
		1362	0	01	67
		1363(स.धोरा)	0	01	96
		1169(स.धोरा)	0	00	34
		1153	0	00	76
7.	कानपुरा	331	0	00	28
		333	0	00	40
		316	0	00	50
		344	0	00	80
		253	0	00	24
		254	0	00	79
		165	0	00	40
		230	0	00	22
		227	0	01	25
		807	0	03	07
		892	0	00	23
		894	0	00	32
		998(स.भूमि)	0	05	04
		998मिन			
		997(स.नाला)	0	00	25
		962	0	01	34
8.	बनेवडी	710	0	00	14
		712	0	01	44
		712मिन			
		704(स.भूमि)	0	00	36
		702	0	02	76
		734	0	06	72
		737	0	00	71
		699	0	00	58
		847(स.भूमि)	0	00	72

तहसील : नसीराबाद		जिला : अजमेर		राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल			
1	2	3	हेक्टेयर	एयर	वर्ग मीटर	
8. बनेवडी	(जारी...)	1117(स.भूमि)	0	01	61	
		1120	0	00	32	
		1101	0	00	71	
		1097	0	03	57	
		1093	0	04	66	
		1094	0	00	96	
		1066(स.भूमि)	0	04	75	
		1073	0	00	93	
		1071(स.कुंआ)	0	00	27	
		1422(स.चारागाह)	0	00	41	
		1392(स.रास्ता)	0	01	02	
		1362	}	00	32	
		1362मिन				
		1375(स.चारागाह)	0	00	58	

[फा. सं. आर-31015/63/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 8th November, 2005

S. O. 4201.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2317 dated the 24th June, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 02nd July, 2005, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from Mundra in the State of Gujarat to Delhi through Mundra-Delhi Petroleum Product Pipeline by Hindustan Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 09th August, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter no. R-31015/7/03-OR- II dated 25-11-2004.

SCHEDULE

Tehsil : NASIRABAD		District : AJMER	State : RAJASTHAN			
Sr. No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
1.	RAJOSHI	3426(G/L Nala)	0	01	19	
		3422/1	}	0	03	33
		3422/2				
		3429/1	}	0	00	31
		3429/2				
		3414/1	}	0	00	50
		3414/2				
		3327(G/L Nala)	0	00	84	
		3326	0	01	87	
		3324	0	02	47	
		3333	0	00	13	
		3334	0	01	05	
		3337	0	00	14	
		3258	0	00	33	
		3260	0	00	67	
		3263	0	01	17	
		3236(G/L Road)	0	00	14	
		3111	0	00	62	
		3114/1	}	0	00	51
		3114/2				
		3108/1	}	0	00	93
		3108/2				
		3107/1	}	0	00	10
		3107/2				
		3104/1(G/L Pal)	}	0	00	64
		3104/2				
		3122	0	00	83	
		3123(G/L Mori)	0	00	22	
		3124/4273	0	00	84	
		3124/4272	0	00	20	
		3081/1	}	0	00	33
		3081/2				
		3080	0	00	62	
3077	0	01	80			
3075	0	01	75			
2763/1	}	0	00	47		
2763/2						
2757/1		}	0	00	64	
2757/2						

Tehsil : NASIRABAD		District : AJMER		State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6.	
1. RAJOSHI (Contd...)		2753(G/L Cart Track)	0	01	44	
		2775/1(G/L Barda)	}	00	14	
		2775/2				
		2815(G/L Pal)	0	00	30	
		2721	0	00	54	
		2723	0	00	41	
		2668	0	00	05	
		2667(G/L Nala)	0	00	49	
		2664/4242(G/L Nala)	0	00	24	
		2666/4273	0	00	20	
		2330/1	}	01	18	
		2330/2				
		2335	0	00	98	
		2324(P.W.D. Road)	0	00	30	
		2294	0	00	53	
		1240	0	00	47	
		1248	0	00	29	
		1249	0	00	20	
		1254	0	00	20	
		1270	0	00	74	
		2157	0	00	29	
		2163	0	00	51	
		2165	0	00	14	
		2155(G/L Cart Track)	0	00	13	
		2070	0	00	32	
		2073	0	00	42	
		2140	0	00	61	
		2139	0	01	03	
		1441	0	00	13	
		1452	0	02	54	
		1462	0	01	56	
		1463/1	}	01	34	
		1463/2				
		1582	0	01	16	
		1583	0	01	52	
	2. GADERI		60(P.W.D. Road)	0	00	16
			62(P.W.D. Road)	0	00	24
			88(G/L Nala)	0	01	21
			89Min	}	00	78
			89Min			
		91Min	}	00	70	
		91Min				

Tehsil : NASIRABAD		District : AJMER	State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
2.	GADERI (Contd...)	103(G/L Barda)	0	01	05
3.	MODI	In Bet. Svy. No. 4 & 21	0	00	05
		21	0	01	40
		20	0	00	86
		20Min			
		20Min			
		20Min			
		20Min			
		38(G/L)	0	00	26
		38Min			
		24(G/P Pasture)	0	01	75
		26	0	01	04
4.	LAVERA	721	0	00	88
		722	0	03	80
		725	0	18	71
		726(G/L Rock)	0	02	20
		734(G/L Cart Track)	0	00	52
		736(G/L)	0	00	36
		744	0	00	20
		745	0	00	38
		758	0	01	54
		761	0	11	30
		803	0	00	18
		804(G/L Cart Track)	0	00	16
		811	0	01	24
		815	0	00	29
		892	0	00	45
		889	0	00	78
		936	0	00	64
		939	0	02	25
		956	0	00	20
		990	0	00	50
		1525	0	00	31
		1516	0	00	27
		1513(G/L Cart Track)	0	00	22
		1496	0	02	43
		1495(G/L Pal)	0	00	42
		1492	0	01	02
		1439	0	04	26
		1442	0	01	57
		1443	0	01	06

Tehsil : NASIRABAD		District : AJMER		State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
4.	LAVERA (Contd...)	1482	0	01	50	
		1482/1639				
		1468(G/L Barda)	0	00	20	
5.	RAMPURA AHIRAN	375	0	00	21	
		385	0	00	41	
		384	0	00	21	
		392	0	00	40	
6.	JILAWADA	1326(G/L Cart Track)	0	00	16	
		1320	0	00	08	
		1316	0	00	53	
		1339	0	00	41	
		1349(G/L Dhora)	0	00	07	
		1359	0	00	53	
		1362	0	01	67	
		1363(G/L Dhora)	0	01	96	
		1169(G/L Dhora)	0	00	34	
		1153	0	00	76	
7.	KANPURA	331	0	00	28	
		333	0	00	40	
		316	0	00	50	
		344	0	00	80	
		253	0	00	24	
		254	0	00	79	
		165	0	00	40	
		230	0	00	22	
		227	0	01	25	
		807	0	03	07	
		892	0	00	23	
		894	0	00	32	
		998(G/L)	0	05	04	
		998Min				
		997(G/L Nala)	0	00	25	
		962	0	01	34	
8.	BANEWADI	710	0	00	14	
		712	0	01	44	
		712Min				
		704(G/L)	0	00	36	
		702	0	02	76	
		734	0	06	72	
		737	0	00	71	
		699	0	00	58	
		847(G/L)	0	00	72	

Tehsil : NASIRABAD		District : AJMER	State : RAJASTHAN			
Sr. No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
8.	BANEWADI (Contd...)	1117(G/L)	0	01	61	
		1120	0	00	32	
		1101	0	00	71	
		1097	0	03	57	
		1093	0	04	66	
		1094	0	00	96	
		1066(G/L)	0	04	75	
		1073	0	00	93	
		1071(G/L Well)	0	00	27	
		1422(G/L Pasture)	0	00	41	
		1392(G/L Cart Track)	0	01	02	
		1362	}	0	00	32
		1362Min				
	1375(G/L Pasture)	0	00	58		

[No. R-31015/63/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 9 नवम्बर, 2005

का. आ. 4202.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1794 तारीख 10 मई, 2005, जो भारत के राजपत्र तारीख 24 मई, 2005 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में लोणी (पुणे) से पकनी (सोलापुर) तक हजारवाडी के रास्ते पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-पूणे विस्तार पाइपलाइन परियोजना के माध्यम से हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;
और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 28 जुलाई, 2005, को उपलब्ध करा दी गई थी ;
और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;
और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;
अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;
और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी वित्तीयगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची								
तालुका : पुरंदर			जिला : पुणे		राज्य : महाराष्ट्र			
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल			
1	2	3	4	5	हेक्टर	एयर	वर्ग मीटर	8
1	सोनोरी		143		00	21	26	
			98		00	04	08	
			96		00	01	14	
			248		00	00	75	
			399		00	02	59	
				कूल	00	29	82	
2	वनपुरी		370		00	04	26	
			355		00	00	90	
			352		00	08	99	
				कूल	00	14	15	
3	कुंभारवलाण		108	ब/6	00	09	13	
			108	ब/10	00	05	46	
			109		00	08	56	
			111		00	06	02	
				कूल	00	29	17	
4	खलद		1395		00	03	98	
			735		00	06	04	
			732		00	04	63	
			726		00	02	36	
			723		00	02	49	
			718		00	02	52	
				कूल	00	22	02	
5	शिवरी		1036		00	02	96	
			833		00	06	34	
			638(पै)		00	03	68	
				कूल	00	12	98	
6	पांगारे		589		00	18	28	
			590		00	68	30	
			596		00	16	08	
			594		00	06	61	
				कूल	01	09	27	
7	शिंदेवाडी		गट नंबर 44 में अस्फालटेड रास्ता	}	00	00	58	
			44		00	21	74	
			88		00	52	23	
			87		00	49	52	

तालुका : पुरंदर			जिला : पुणे		राज्य : महाराष्ट्र		
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
7	शिंदेवाडी (निरंतर)		गट नंबर 87 में मेटल्ड रास्ता		00	01	72
					00	20	97
					00	09	54
					00	10	33
					00	15	47
					00	02	31
					00	04	61
					00	09	18
					00	35	31
					00	03	07
					00	01	24
			गट नंबर 67 और 57 के बीच में अस्फालटेड रास्ता		00	02	28
					00	06	41
					00	26	44
					00	00	20
					00	11	60
					00	00	39
					00	15	71
					00	07	99
					00	21	06
					00	03	94
8	खेंगरेवाडी			00	14	68	
				00	14	90	
				00	06	27	
				00	12	97	
				00	14	32	
				00	20	73	
				00	09	08	
				00	09	08	
कुल					04	26	79
8	खेंगरेवाडी				00	01	31
					00	03	35
					00	00	20
					00	07	53
					00	02	90
					00	06	41

तालुका : पुरंदर			जिला : पुणे		राज्य : महाराष्ट्र		
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
8	खेंगरेवाडी (निरंतर)		159		00	00	20
			160		00	00	20
			गट नंबर 170 में मेटल्ड रास्ता		00	02	42
			170		00	28	81
			168		00	00	20
			72		00	07	71
			181		00	04	42
			186		00	04	95
			182		00	04	02
			183		00	09	21
			185		00	00	20
			184		00	04	23
				कूल	00	88	27
9	परिचे		2138		00	01	46
			2150		00	03	72
			2151		00	08	66
			2152		00	03	54
			2155		00	06	37
			2154		00	12	51
			2156		00	04	96
			2157		00	00	51
			2153		00	07	07
			2165		00	05	24
			2164		00	04	89
			2163		00	04	09
			2162		00	01	14
			2161		00	06	62
			2160		00	04	81
			2159		00	06	10
			2206		00	02	82
			2209		00	03	31
			2212		00	10	25
			2225		00	04	89
			2260		00	16	67
			2238		00	06	64
			2303		00	09	94

तालुका : पुरंदर			जिला : पुणे		राज्य : महाराष्ट्र		
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
9	परिंचे (निरंतर)		2356		00	06	54
			2571		00	06	52
			2643		00	01	98
			2642		00	02	68
			2626		00	01	31
			2627		00	01	11
			2628		00	01	12
			2639		00	05	25
			2738		00	01	57
			2732		00	13	65
			2733		00	04	47
			2734		00	00	20
			3109		00	05	23
			3136		00	73	43
		कुल					02
10	हरणी		79		00	00	60
			11		00	35	18
			923		00	00	94
			891		00	07	00
			893		00	05	34
			674		00	00	33
			718		00	01	38
कुल					00	50	77
11	वीर		1789		00	04	63
			1796		00	02	16
			1797		00	01	53
			1804		00	05	96
			1824		00	16	48
			1825		00	12	96
कुल					00	43	72
12	मांडकी		1480		00	05	80
			1306		00	00	95
			1308		00	01	09
			940		00	12	19
कुल					00	20	03
13	जेअुर		1129		00	01	61
			1123		00	04	77
			1118		00	06	24

तालुका : पुरंदर		जिला : पुणे		राज्य : महाराष्ट्र			
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
13	जेअुर (निरंतर)		1116		00	07	81
			851		00	06	42
			852		00	02	66
			576		00	06	73
			597		00	19	75
			593		00	01	02
			594		00	00	61
			595		00	00	72
			579		00	00	47
			575		00	14	58
कुल					00	73	39

[फा. सं. आर-31015/25/2004-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 9th November, 2005

S. O. 4202.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1794, dated the 10th May, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 14th May, 2005, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Pune Pipeline Extension Project from Loni (Pune) to Pakni (Solapur) via Hazarwadi in the State of Maharashtra by Hindustan Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 28th July, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of this declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : PURANDHAR			District : PUNE		State : MAHARASHTRA		
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
1	SONORI		143		00	21	26
			98		00	04	08
			96		00	01	14
			248		00	00	75
			399		00	02	59
Total					00	29	82
2	VANPURI		370		00	04	26
			355		00	00	90
			352		00	08	99
Total					00	14	15
3	KUMBHARVALAN		108	B/6	00	09	13
			108	B/10	00	05	46
			109		00	08	56
			111		00	06	02
Total					00	29	17
4	KHALAD		1395		00	03	98
			735		00	06	04
			732		00	04	63
			726		00	02	36
			723		00	02	49
			718		00	02	52
Total					00	22	02
5	SHIVARI		1036		00	02	96
			833		00	06	34
			638(P)		00	03	68
Total					00	12	98
6	PANGARE		589		00	18	28
			590		00	68	30
			596		00	16	08
			594		00	06	61
Total					01	09	27
7	SHINDEWADI		Asphalted Road in Gat No. 44 }		00	00	58
			44		00	21	74
			88		00	52	23
			87		00	49	52

Taluka : PURANDHAR			District : PUNE		State : MAHARASHTRA			
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area			
					Hectare	Are	Sq.mt	
1	2	3	4	5	6	7	8	
7	SHINDEWADI (Contd.)		Metalled Road in Gat No. 87 }		00	01	72	
			81		90	20	97	
			79		00	09	54	
			78		00	10	33	
			63		00	15	47	
			64		00	02	31	
			65		00	04	61	
			66		00	09	18	
			67		00	35	31	
			57		00	03	07	
			69		00	01	24	
			Asphalted Road in between Gat No. 67 & 57 }		00	02	28	
			55		00	06	41	
			46		00	26	44	
			56		00	00	20	
			7		00	11	60	
			5		00	00	39	
			6		00	15	71	
			8		00	07	99	
			174		00	21	06	
			175		00	03	94	
			133		00	14	68	
			139		00	14	90	
			182		00	06	27	
			148		00	12	97	
			142		00	14	32	
			143		00	20	73	
			141		00	09	08	
Total					04	26	79	
8	KHENGREWADI		153		00	01	31	
			156		00	03	35	
			157		00	00	20	
			154		00	07	53	
			155		00	02	90	
			158		00	06	41	

Taluka : PURANDHAR			District : PUNE		State : MAHARASHTRA		
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
8	KHENGREWADI (Contd.)		159		00	00	20
			160		00	00	20
			Metalled Road in } Gat No. 170		00	02	42
			170		00	28	81
			168		00	00	20
			72		00	07	71
			181		00	04	42
			186		00	04	95
			182		00	04	02
			183		00	09	21
			185		00	00	20
			184		00	04	23
Total					00	88	27
9	PARINCHE		2138		00	01	46
			2150		00	03	72
			2151		00	08	66
			2152		00	03	54
			2155		00	06	37
			2154		00	12	51
			2156		00	04	96
			2157		00	00	51
			2153		00	07	07
			2165		00	05	24
			2164		00	04	89
			2163		00	04	09
			2162		00	01	14
			2161		00	06	62
			2160		00	04	81
			2159		00	06	10
			2206		00	02	82
			2209		00	03	31
			2212		00	10	25
			2225		00	04	89
			2260		00	16	67
			2238		00	06	64
			2303		00	09	94

Taluka : PURANDHAR			District : PUNE		State : MAHARASHTRA			
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area			
					Hectare	Are	Sq.mt	
1	2	3	4	5	6	7	8	
9 PARINCHE (Contd.)								
			2356		00	06	54	
			2571		00	06	52	
			2643		00	01	98	
			2642		00	02	68	
			2626		00	01	31	
			2627		00	01	11	
			2628		00	01	12	
			2639		00	05	25	
			2738		00	01	57	
			2732		00	13	65	
			2733		00	04	47	
			2734		00	00	20	
			3109		00	05	23	
			3136		00	73	43	
Total					02	61	27	
10 HARNI								
			79		00	00	60	
			11		00	35	18	
			923		00	00	94	
			891		00	07	00	
			893		00	05	34	
			674		00	00	33	
			718		00	01	38	
Total					00	50	77	
11 VIR								
			1789		00	04	63	
			1796		00	02	16	
			1797		00	01	53	
			1804		00	05	96	
			1824		00	16	48	
			1825		00	12	96	
Total					00	43	72	
12 MANDKI								
			1480		00	05	80	
			1306		00	00	95	
			1308		00	01	09	
			940		00	12	19	
Total					00	20	03	
13 JEUR								
			1129		00	01	61	
			1123		00	04	77	
			1118		00	06	24	

Taluka : PURANDHAR			District : PUNE		State : MAHARASHTRA		
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
13	JEUR (Contd.)		1116		00	07	81
			851		00	06	42
			852		00	02	66
			576		00	06	73
			597		00	19	75
			593		00	01	02
			594		00	00	61
			595		00	00	72
			579		00	00	47
			575		00	14	58
Total					00	73	39

[No. R-31015/25/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 9 नवम्बर, 2005

का. आ. 4203.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1912 तारीख 26 मई, 2005, जो भारत के राजपत्र तारीख 28 मई, 2005 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में लोणी (पुणे) से पक्नी (सोलापुर) तक हजारवाडी के रास्ते पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-पूणे विस्तार पाइपलाइन परियोजना के माध्यम से हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 13 अगस्त, 2005, को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची								
तालुका : फलटण			जिला : सातारा		राज्य : महाराष्ट्र			
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल			
1	2	3	4	5	हेक्टर	एयर	वर्ग मीटर	8
1	कोरेगाँव		23		00	01	67	
			5		00	02	60	
			99		00	00	90	
			101		00	01	04	
			145		00	01	35	
			170		00	02	15	
			197		00	00	30	
			199		00	00	20	
			201		00	00	30	
			243		00	02	10	
कूल					00	12	61	
2	तरडगाँव		1121		00	00	30	
			1123		00	02	26	
			1120		00	00	50	
			927		00	00	30	
			913		00	01	62	
			557		00	00	94	
			560		00	02	51	
			561		00	00	20	
			567		00	01	58	
			579		00	02	62	
			578		00	00	76	
			631		00	00	81	
			636		00	02	84	
			648		00	03	16	
			699		00	02	14	
			712		00	00	60	
			713		00	01	81	
			723		00	00	16	
			714		00	00	60	
कूल					00	25	71	
3	चव्हाणवाडी		124		00	02	14	
			127		00	00	33	
			128		00	00	48	
कूल					00	02	95	
4	सासवड		1167		00	01	78	
			1166		00	02	34	
			1162		00	01	65	
			1280	अ	00	22	55	
			1281	ब	00	22	55	
			1277		00	00	34	
			1879		00	02	08	
			1878		00	00	33	

तालुका : फलटण			जिला : सातारा		राज्य : महाराष्ट्र		
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
4	सासवड (निरंतर)		2009		00	01	58
			2010		00	01	58
			2013		00	00	31
			2016		00	03	09
			2017		00	03	09
			2030		00	04	22
			2024		00	00	38
			11		00	02	41
			203		00	06	14
			202		00	03	25
			207		00	03	10
			210		00	01	99
			211		00	01	32
			224		00	02	25
			220		00	01	48
			219		00	01	35
			217		00	04	56
			234		00	01	41
			248	2	00	02	85
			कूल		00	99	98
5	घाडगेवाडी		293		00	04	25
			294		00	01	56
			296		00	01	10
			284		00	00	70
			282		00	02	40
			277		00	20	02
			344		00	03	10
			421		00	01	61
			425		00	01	45
			427		00	00	96
			430		00	03	98
			कूल		00	41	13
6	बिबी		807		00	00	84
			810		00	03	02
			44		00	00	20
			52		00	00	93
			51		00	06	52
			53		00	02	13
			78		00	01	80
			47		00	01	76
			83		00	00	73
			38		00	02	34
			15		00	00	20
			14		00	00	30

तालुका : फलटण		जिला : सातारा		राज्य : महाराष्ट्र			
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
1	2	3	4	5	हेक्टर	एयर	वर्ग मीटर
6	बिबी (निरंतर)		13		00	02	34
				कूल	00	23	11
7	वडगाँव		51		00	02	08
			61		00	06	01
			59		00	03	54
			58		00	01	05
			33		00	02	07
			32		00	02	00
			31		00	00	30
			92		00	01	37
			87		00	02	32
			184		00	01	28
				कूल	00	22	02
8	वाघोशी		8		00	11	86
				कूल	00	11	86
9	ताथवडे		48		00	50	65
			49		00	12	36
			45		00	01	55
			43		00	02	31
			41		00	26	02
			40		00	29	93
			39		00	48	54
			38		00	47	09
				कूल	02	18	45

[फा. सं. आर-31015/20/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 9th November, 2005

S. O. 4203.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1912, dated the 26th May, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 28th May, 2005, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Pune Pipeline Extension Project from Loni (Pune) to Pakni (Solapur) via Hazarwadi in the State of Maharashtra by Hindustan Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 13th August, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of this declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : PHALTAN		District : SATARA		State : MAHARASHTRA			
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
1	KOREGAON		23		00	01	67
			5		00	02	60
			99		00	00	90
			101		00	01	04
			145		00	01	35
			170		00	02	15
			197		00	00	30
			199		00	00	20
			201		00	00	30
			243		00	02	10
		Total			00	12	61
2	TARADGAON		1121		00	00	30
			1123		00	02	26
			1120		00	00	50
			927		00	00	30
			913		00	01	62
			557		00	00	94
			560		00	02	51
			561		00	00	20
			567		00	01	58
			579		00	02	62
			578		00	00	76
			631		00	00	81
			636		00	02	84
			648		00	03	16
			699		00	02	14
			712		00	00	60
			713		00	01	81
			723		00	00	16
			714		00	00	60
		Total			00	25	71
3	CHAUHANWADI		124		00	02	14
			127		00	00	33
			128		00	00	48
		Total			00	02	95
4	SASVAD		1167		00	01	78
			1166		00	02	34

Taluka : PHALTAN		District : SATARA		State : MAHARASHTRA			
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
4 SASVAD (Contd.)							
			1162		00	01	65
			1280	A	00	22	55
			1281	B	00	22	55
			1277		00	00	34
			1879		00	02	08
			1878		00	00	33
			2009		00	01	58
			2010		00	01	58
			2013		00	00	31
			2016		00	03	09
			2017		00	03	09
			2030		00	04	22
			2024		00	00	38
			11		00	02	41
			203		00	06	14
			202		00	03	25
			207		00	03	10
			210		00	01	99
			211		00	01	32
			224		00	02	25
			220		00	01	48
			219		00	01	35
			217		00	04	56
			234		00	01	41
			248	2	00	02	85
Total					00	99	98
5 GHADGEWADI							
			293		00	04	25
			294		00	01	56
			296		00	01	10
			284		00	00	70
			282		00	02	40
			277		00	20	02
			344		00	03	10
			421		00	01	61
			425		00	01	45
			427		00	00	96
			430		00	03	98
Total					00	41	13
6 BIBI							
			807		00	00	84
			810		00	03	02
			44		00	00	20
			52		00	00	93
			51		00	06	52
			53		00	02	13
			78		00	01	80
			47		00	01	76
			83		00	00	73
			38		00	02	34
			15		00	00	20
			14		00	00	30

Taluka : PHALTAN			District : SATARA		State : MAHARASHTRA		
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
6	BIBI (Contd.)		13		00	02	34
Total					00	23	11
7	VADGAON		51		00	02	08
			61		00	06	01
			59		00	03	54
			58		00	01	05
			33		00	02	07
			32		00	02	00
			31		00	00	30
			92		00	01	37
			87		00	02	32
			184		00	01	28
Total					00	22	02
8	WAGHOSHI		8		00	11	86
Total					00	11	86
9	TATHA VADE		48		00	50	65
			49		00	12	36
			45		00	01	55
			43		00	02	31
			41		00	26	02
			40		00	29	93
			39		00	48	54
			38		00	47	09
Total					02	18	45

[No. R-31015/20/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 9 नवम्बर, 2005

का. आ. 4204.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2324 तारीख 27 जून, 2005, जो भारत के राजपत्र तारीख 2 जुलाई, 2005, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मुद्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से गुजरात राज्य में मुद्रा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 11 अगस्त, 2005, को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, इस मंत्रालय के सहमति पत्र सं. आर - 31015/7/03 ओ.आर-1 दिनांक 25/11/2004 द्वारा लगाई गई शर्तों के अधीन सभी विल्लंगों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : आबू रोड		जिला : सिरौही	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	आवल	657	0	02	31
		664	0	01	36
		677	0	00	46
		712	0	00	60
		713	0	00	28
		717	0	00	51
		718	0	00	19
		421	0	00	20
		423	0	02	33
		400	0	00	39
		384	0	05	44
		373	0	00	31
		371	0	00	29
		372	0	00	27
		370	0	01	48
		365	0	00	43
		178(ग्रा.पं.सड़क)	0	01	23
		123	0	00	22
		135	0	00	68
		137	0	02	79
		142	0	01	42
		149	0	00	70
2.	मूंगयला	519	0	00	51
		570	0	00	56
		573(सिं.विभाग)	0	00	40
		578(सिं.विभाग)	0	00	46
		596	0	01	69
		594	0	00	20
		597(स.नाला)	0	00	54
		1679/1	0	00	61
		1678	0	04	34
		1500	0	01	44
		1498	0	03	63

तहसील : आबू रोड		जिला : सिरोही	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
1	2	3	हेक्टेयर	एयर	वर्ग मीटर
4	5	6			
2.	मूंगयला (जारी...)	1497	0	01	35
		1472	0	02	12
		1404	0	01	43
		1405	0	00	49
		1413	0	01	30
		1414	0	01	96
		1411	0	00	71
		1349	0	00	60
		1280	0	00	92
		1281	0	00	49
		1266	0	00	40
3.	मीरगढ	94	0	01	71
		86	0	07	37
		76	0	04	67
		75	0	00	54
		35	0	01	54
		32	0	00	22
4.	तलवारों का नाका	372	0	02	02
		369(स.नाला)	0	00	25
		347	0	00	33
		354	0	00	49
		358	0	07	01
		318	0	01	09
		299	0	02	34
		296	0	01	85
		295/532	0	02	67
		295/1	}	00	66
		295मिन01			
		281	0	01	82
		283	0	01	44
		278(सिं.वि. नहर)	0	00	1
		277/521	0	01	41
5.	गणका	12	0	01	18
		443	0	02	62
		444	0	02	62
		429	0	01	09
		415	0	01	04
		68	0	00	94
		116	0	01	37
		117	0	02	10
		121	0	02	85
6.	उमरनी	68	0	00	32
		64	0	00	36
		53	0	00	95
		49(स.नाला)	0	04	11
		186	0	01	44
		239	0	01	95

तहसील : आबू रोड		जिला : सिरौही	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
6.	सुमरनी (पारी--)	244	0	00	06
		196मिन 01	0	00	86
		197	0	03	42
		433मिन01	0	01	68
7.	दानसाव	205	0	00	64
		206	0	00	64
		219	0	00	81
		236	0	01	21
		245	0	01	27
		244	0	00	83
		237	0	00	39
		243	0	01	44
		272/252	0	00	96
		255	0	01	07
8.	कारोली	406	0	00	37
		410 (स.मगरी)	0	00	61
		409	0	00	68
		387(स.नाला)	0	00	42
		396/2	0	00	16
		393	0	00	24
		233/2	0	00	67
		232	0	01	06
		250	0	00	60
		121	0	01	79
9.	आमथला	1081	0	00	76
		1083	0	02	55
		1093	0	03	23
		1082	0	00	96
		992मिन01(स.भूमि)	0	00	31
		993	0	00	96
		981	0	02	16
		986	0	04	45
		987	0	01	14
		834/2	0	00	38
		686	0	00	61
		719	0	00	33
		720	0	00	41
		726	0	02	08
		743	0	01	09
		744(स.भूमि)	0	00	36
		745(स.रास्ता)	0	00	17
		752	0	00	61
		750 मिन01(स.भूमि)	}	00	38
		750/1175			
		750/1211			
		750/1212			
		142/1210	0	01	55

तहसील : आबू रोड		जिला : सिरोंही	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	असरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
9. आमथला (जारी...)		140मिन01(स.भूमि)	0	00	24
		126/1191	0	00	74
		126मिन01(स.भूमि)	}	00	72
		126/1163			
		126/1162			
		122	0	00	20
		124	0	00	38
		409	0	01	01
		404	0	01	40
		394	0	01	74
10. मुदरला		339/763	0	01	37
		341	0	00	82
		354	0	00	80
		358मिन	0	02	27
		74	0	02	59
		86	0	00	65
		90	0	00	90

[फ़. स. आर-31015/44/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 9th November, 2005

S. O. 4204.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2324 dated the 27th June, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 2nd July, 2005, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from Mundra in the State of Gujarat to Delhi through Mundra-Delhi Petroleum Product Pipeline by Hindustan Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 11th August, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter no. R-31015/7/03 OR-II dated 25-11-2004.

SCHEDULE

Tehsil : ABU ROAD		District : SIROHI		State : RAJASTHAN	
Sr. No	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1. AVAL		657	0	02	31
		664	0	01	36
		677	0	00	46
		712	0	00	60
		713	0	00	28
		717	0	00	51
		718	0	00	19
		421	0	00	20
		423	0	02	33
		400	0	00	39
		384	0	05	44
		373	0	00	31
		371	0	00	29
		372	0	00	27
		370	0	01	48
		365	0	00	43
		178(G.P. Road)	0	01	23
		123	0	00	22
		135	0	00	68
		137	0	02	79
		142	0	01	42
	2. MUNGTHALA		149	0	00
		519	0	00	51
		570	0	00	56
		573(Irrigation deptt.)	0	00	40
		578(Irrigation deptt.)	0	00	46
		596	0	01	69
		594	0	00	20
		597(G/L Nala)	0	00	54
		1679/1	0	00	61
		1678	0	04	34
		1500	0	01	44
		1498	0	03	63
		1497	0	01	35
		1472	0	02	12
	1404	0	01	43	

Tehsil : ABU ROAD		District : SIROHI	State : RAJASTHAN		
Sr. No	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
2.	MUNGTHALA (Contd...)	1405	0	00	49
		1413	0	01	30
		1414	0	01	96
		1411	0	00	71
		1349	0	00	60
		1280	0	00	92
		1281	0	00	49
		1266	0	00	40
3.	MIRGARH	94	0	01	71
		86	0	07	37
		76	0	04	67
		75	0	00	54
		35	0	01	54
		32	0	00	22
		4.	TALWARON KA NAKA	372	0
369(G/L Nala)	0			00	25
347	0			00	33
354	0			00	49
358	0			07	01
318	0			01	09
299	0			02	34
296	0			01	85
295/532	0			02	67
295/1	}			00	66
295Min01					
281	0			01	82
283	0			01	44
278(Irrig. Deptt. Canal)	0			00	17
277/521	0			01	41
5.	GANKA	12	0	01	18
		443	0	02	63
		444	0	02	62
		429	0	01	09
		415	0	01	04
		68	0	00	94
		116	0	01	37
		117	0	02	10
		121	0	02	85
		6.	UMARNI	68	0
64	0			00	36
53	0			00	95
49(G/L Nala)	0			04	11
186	0			01	44
239	0			01	95
244	0			00	06
196Min01	0			00	86
197	0			03	42
433Min01	0			01	68

Tehsil : ABU ROAD		District : SIROHI	State : RAJASTHAN			
Sr. No	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
7. DANWAV		205	0	00	64	
		206	0	00	64	
		219	0	00	81	
		236	0	01	21	
		245	0	01	27	
		244	0	00	83	
		237	0	00	39	
		243	0	01	44	
		272/252	0	00	96	
		255	0	01	07	
8. KAROLI		406	0	00	37	
		410 (G/L Magari)	0	00	61	
		409	0	00	68	
		387(G/L Nala)	0	00	42	
		396/2	0	00	16	
		393	0	00	24	
		233/2	0	00	67	
		232	0	01	06	
		250	0	00	60	
		121	0	01	79	
	9. AMTHALA		1081	0	00	76
			1083	0	02	55
			1093	0	03	23
			1082	0	00	96
		992Min01(G/L)	0	00	31	
		993	0	00	96	
		981	0	02	16	
		986	0	04	45	
		987	0	01	14	
		834/2	0	00	38	
		686	0	00	61	
		719	0	00	33	
		720	0	00	41	
		726	0	02	08	
		743	0	01	09	
		744(G/L)	0	00	36	
		745(G/L Cart Track)	0	00	17	
		752	0	00	61	
		750Min01 (G/L)	}	00	38	
		750/1175				
	750/1211					
	750/1212					
		142/1210	0	01	55	

Tehsil : ABU ROAD		District : SIROHI	State : RAJASTHAN			
Sr. No	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
9. AMTHALA (Contd...)		140Min01(G/L)	0	00	24	
		126/1191	0	00	74	
		126Min01(G/L)	}	00	72	
		126/1163				
		126/1162				
		122	0	00	20	
		124	0	00	38	
	10. MUDARLA		409	0	01	01
			404	0	01	40
			394	0	01	74
		339/763	0	01	37	
		341	0	00	82	
		354	0	00	80	
		358Min	0	02	27	
		74	0	02	59	
		86	0	00	65	
	90	0	00	90		

[No. R-31015/44/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 9 नवम्बर, 2005

का.आ. 4205.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2244 तारीख 23 जून, 2005, जो भारत के राजपत्र तारीख 25 जून, 2005 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मुद्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से गुजरात राज्य में मुद्रा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 30 जुलाई , 2005 को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, इस मंत्रालय के सहमति पत्र सं. आर - 31015/7/03 ओ.आर-II दिनांक 25/11/2004 द्वारा लगाई गई शर्तों के अध्याधीन सभी वित्तीयों से मुक्त, हिन्दुस्तान पेट्रोलेियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : विराटनगर		जिला : जयपुर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	बागावासचौरासी	491	0	01	37
		488	0	00	50
		563	0	00	20
		755	0	00	18
		750	0	01	09
		751	0	01	87
		741	0	00	56
		1011	0	00	64
		1010(स.रास्ता)	0	00	45
		1015	0	00	29
		1016	0	00	22
		1017	0	00	53
		1018	0	01	17
		1020	0	09	29
		1041	0	06	49
		1121	0	11	12
		1512	0	00	06
		1228	0	02	08
		1226	0	01	97
		1232	0	04	00
		1233	0	02	00
		1236	0	11	88
		1241(स.नाला)	0	00	09
		1239(स.नाला)	0	00	28
		1253	0	02	38
		1124	0	06	54
		1126	0	01	04
		1123	0	16	20
		1122	0	08	84
		1120	0	09	00
		1132/1976	0	02	16
		1132	0	01	44
		1133	0	00	20
		1134	0	09	36
		1150	0	09	72
		1149	0	02	16

तहसील : विराटनगर		जिला : जयपुर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	असरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	बागावांसचौरासी (जारी...)	1148	0	00	48
		1138	0	11	88
		1143	0	06	48
		1141	0	15	12
		1518	0	01	96
		1513	0	00	20
		1503	0	00	20
2.	द्वणीजोगियान	765	0	00	55
		761	0	00	78
3.	चतरपुरा	440	0	00	29
		449	0	00	16
		424	0	00	32
		419	0	00	23
		408	0	00	22
		409	0	00	07
		406	0	00	26
		390	0	01	95
	391(स.नाला)		0	00	36
	362		0	00	12
	367		0	00	28
	333/612		0	00	39
	333		0	00	29
	334		0	00	11
	326/622		0	00	29
4.	धोबियावाला	263	0	00	59
		275	0	01	38
		277	0	00	38
		279	0	00	37
		181	0	00	15
		175	0	01	86
		97	0	00	10
		98	0	00	35
		96	0	00	84
		102	0	00	65
	104(स.चारागाह)		0	01	16
	124(स.चारागाह)		0	01	01
5.	भाबरु	4178	0	00	37
		4229	0	00	99
		4227	0	00	70
		4212	0	01	58
		4210	0	00	85
	4207(स.नाला)		0	00	55
		4183	0	00	14
		4180	0	01	00

तहसील : विराटनगर		जिला : जयपुर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
6.	लुहाकनाकला	1259	0	00	18
		1260	0	00	67
		1261	0	01	11
		1272	0	00	30
		1264	0	00	75
		1271	0	01	60
		266/1581(स.नाला)	0	00	54
		1266	0	00	94
		1269(स.रास्ता)	0	00	43
		1191	0	02	59
		1186(स.नाला)	0	00	48
		1185/1705	0	00	19
		1184	0	01	58
		1160	0	03	76
		1161	0	02	34
		1159	0	00	17
7.	लुहाकनाखुर्द	1095(स.चारागाह)	0	04	06
		1094(स.आबादी)	0	01	76
		1065/1560	0	03	79
		1062	0	03	03
		1065	0	00	10
		318	0	00	82
		312	0	00	43
		310	0	00	35
		302	0	02	68
		260	0	00	55
		259	0	01	03
		257	0	00	22
		256	0	01	52
		250	0	00	28
		249	0	01	76
		245	0	00	23
		243	0	00	12
		242	0	01	79
		236	0	01	24
		234(स.नाला)	0	01	29
8.	धूलकोट	356	0	00	15
		359	0	01	16
		351	0	01	24
		361	0	01	10
		348	0	01	49

तहसील : विराटनगर		जिला : जयपुर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
8.	धूलकोट (जारी...)	321	0	00	25
9.	सूरजपुरा	1757	0	00	27
		1749	0	00	43
10.	बहादुरपुरा	1744	0	01	42
		1743	0	00	86
		1545	0	00	76
		1547	0	11	70
		1550	0	02	10
		1572	0	01	81
		1570	0	00	41
		1568	0	00	68
11.	जयसिंहपुरा	1465	0	01	71
		1457	0	02	84
		1448	0	00	16
		1447	0	00	86
		1434	0	01	98
		1213	0	01	34
		1211	0	01	01
		1228	0	01	66
		1243	0	00	70
		1031	0	00	61
		1029	0	00	10
		1024	0	01	92
		1259	0	01	13
		968	0	01	21
		967	0	05	03
		947	0	02	00
		957	0	00	20
		956	0	00	87

[फा. सं. आर-31015/58/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 9th November, 2005

S. O. 4205.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2244 dated the 23rd June, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 25th June, 2005, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from Mundra in the State of Gujarat to Delhi through Mundra-Delhi Petroleum Product Pipeline by Hindustan Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 30th July, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter no. R-31015/7/03 OR-II dated 25-11-2004.

SCHEDULE

Tehsil : VIRATNAGAR		District : JAIPUR	State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1.	BAGAWASCHORASI	491	0	01	37
		488	0	00	50
		563	0	00	20
		755	0	00	18
		750	0	01	09
		751	0	01	87
		741	0	00	56
		1011	0	00	64
		1010(G/L Cart Track)	0	00	45
		1015	0	00	29
		1016	0	00	22
		1017	0	00	53
		1018	0	01	17
		1020	0	09	29
		1041	0	06	49
		1121	0	11	12
		1512	0	00	06
		1228	0	02	08
		1226	0	01	97
		1232	0	04	00
		1233	0	02	00
		1236	0	11	88
		1241(G/L Nala)	0	00	09
		1239(G/L Nala)	0	00	28

Tehsil : VIRATNAGAR		District : JAIPUR	State : RAJASTHAN			
Sr. No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
1. BAGAWASCHORASI (Contd...)		1253	0	02	38	
		1124	0	06	54	
		1126	0	01	04	
		1123	0	16	20	
		1122	0	08	84	
		1120	0	09	00	
		1132/1976	0	02	16	
		1132	0	01	44	
		1133	0	00	20	
		1134	0	09	36	
		1150	0	09	72	
		1149	0	02	16	
		1148	0	00	48	
		1138	0	11	88	
		1143	0	06	48	
		1141	0	15	12	
		1518	0	01	96	
		1513	0	00	20	
		1503	0	00	20	
	2. DHANIJOGIYAN		765	0	00	55
			761	0	00	78
3. CHATARPURA		440	0	00	29	
		449	0	00	16	
		424	0	00	32	
		419	0	00	23	
		408	0	00	22	
		409	0	00	07	
		406	0	00	26	
		390	0	01	95	
		391(G/L Nala)	0	00	36	
		362	0	00	12	
		367	0	00	28	
		333/612	0	00	39	
		333	0	00	29	
		334	0	00	11	
		326/622	0	00	29	
	DHOBIAWALA		263	0	00	59
			275	0	01	38
			277	0	00	38
			279	0	00	37
			181	0	00	15
			175	0	01	86
		97	0	00	10	
		98	0	00	35	

Tehsil : VIRATNAGAR		District : JAIPUR	State : RAJASTHAN			
Sr. No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
4.	DHODIYAWALA (continued)	96	0	00	84	
		102	0	00	65	
		104(G/L Pasture)	0	01	16	
		124(G/L Pasture)	0	01	01	
5.	BHABARU	4178	0	00	37	
		4229	0	00	99	
		4227	0	00	70	
		4212	0	01	58	
		4210	0	00	85	
		4207(G/L Nala)	0	00	55	
		4183	0	00	14	
		4180	0	01	00	
		1259	0	00	18	
6.	LUHAKANAKALAN	1260	0	00	67	
		1261	0	01	11	
		1272	0	00	30	
		1264	0	00	75	
		1271	0	01	60	
		1266/1581(G/L Nala)	0	00	54	
		1266	0	00	94	
		1269(G/L Cart Track)	0	00	43	
		1191	0	02	59	
		1186(G/L Nala)	0	00	48	
		1185/1705	0	00	19	
		1184	0	01	58	
		1160	0	03	76	
		1161	0	02	34	
		1159	0	00	17	
		7.	LUHAKANAKHURD	1095(G/L Pasture)	0	04
1094(G/L Abadi)	0			01	76	
1065/1560	0			03	79	
1062	0			03	03	
1065	0			00	10	
318	0			00	82	
312	0			00	43	
310	0			00	35	
302	0			02	68	
260	0			00	55	
259	0			01	03	
257	0			00	22	
256	0			01	52	
250	0			00	28	
249	0			01	76	
245	0			00	23	
243	0			00	12	

Tehsil : VIRATNAGAR		District : JAIPUR	State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
7.	LUHAKANAKHURD (contd....)	242	0	01	79
		236	0	01	24
		234(G/L Nala)	0	01	29
8.	DHULKOT	356	0	00	15
		359	0	01	16
		351	0	01	24
		361	0	01	10
		348	0	01	49
		321	0	00	25
		1757	0	00	27
9.	SURAJPURA	1749	0	00	43
		1744	0	01	42
10.	BAHADURPURA	1743	0	00	86
		1545	0	00	76
		1547	0	11	70
		1550	0	02	10
		1572	0	01	81
		1570	0	00	41
		1568	0	00	68
		1465	0	01	71
		1457	0	02	84
		1448	0	00	16
11.	JAISINGHPURA	1447	0	00	86
		1434	0	01	98
		1213	0	01	34
		1211	0	01	01
		1228	0	01	66
		1243	0	00	70
		1031	0	00	61
		1029	0	00	10
		1024	0	01	92
		1259	0	01	13
		968	0	01	21
		967	0	05	03
		947	0	02	00
		957	0	00	20
		956	0	00	87

[No. R-31015/58/2004-O.R.-II]
HARISH KUMAR, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4206.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सी जी आई टी/एल सी/आर/165/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-2005 को प्राप्त हुआ था।

[सं. एल-40011/22/89-डी. 2 (बी)]

कुलदीप राय वर्मा, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 14th October, 2005

S.O. 4206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/165/90) of the Central Government Industrial Tribunal/Labour Court, Jabalpur, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workmen. Which was received by the Central Government on 14-10-2005.

[No. L-40011/22/89-D. 2 (B)]

KULDEEP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

CASE NO. CGIT/LC/R/165/90**PRESIDING OFFICER: SHRI C. M. SINGH**

Shri L. D. Sharma,
Divisional Secretary,
Akhil Bhartiya Door Sanchar Karmachari Sangh,
Line Staff Avom Chaturth Marg,
C.T.O Compound,
Jabalpur - 482001(MP)

Workman

Versus

The General Manager,
Telecommunication,
Bhopal (MP)

The Sub Divisional Officer,
Telegraph, Narsinghpur - 487001

Managements

AWARD

Passed on this 5th day of October, 2005

1. The Government of India, Ministry of Labour vide its Notification No.L-40011/22/89-D-2(B) dated 10-7-90 has referred the following dispute for adjudication by this tribunal:-

"क्या टेलीकम्युनिकेशन, भोपाल (म.प्र.) के प्रबंधकों द्वारा श्री अवधेश कुमार आत्मज श्री आनंदीलाल खरे, एक्स श्रमिक की सेवाएं दिनांक 30-4-88 से एंव श्रमिक श्री शरदकुमार आत्मज सुदामा प्रसाद श्रीवास्तव, एक्स श्रमिक की सेवाएं दिनांक 28-2-89 से समाप्त किए जाने की कार्यवाही न्यायोचित है। यदि नहीं, तो कर्मकार किस अनुतोष का हकदार है।"

2. After the reference order was received, it was duly registered on 16-7-90 and notices were issued to the parties. In response of notice, the workman filed their statement of claim and thereafter the management filed their Written Statement. The record of reference reveals that a so-called affidavit of workman Shri Sharad Kumar Shrivastava was also filed but the said affidavit is actually no affidavit in the eye of law. It has not been properly sworn in before any magistrate, public notary or the other authorised authority. Therefore the same cannot be read in evidence. Thereafter the parties absented themselves and did not appear before this tribunal inspite of sufficient service of notice on them by Registered AD post. Under the circumstances, this tribunal left with no alternative but to close the reference for Award.

3. It is very clear from the above that both the parties have no interest in this reference and they do not want to prosecute this reference. Under the circumstances, it would be just and proper to pass a No Dispute Award.

4. For the reasons mentioned above, No Dispute Award is passed in the reference without any order as to costs.

5. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्ट एंड टेलीग्राफ, माइक्रोवेव मेन्टेनेंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 85/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-2005 को प्राप्त हुआ था।

[सं. एल-40012/226/2003-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 14th October, 2005

S.O. 4207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.85/2004) of the Central Government Industrial Tribunal/Labour Court, Lucknow, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Post and Telegraph, Microwave

Maintenance and their workmen, which was received by the Central Government on 14-10-2005.

[No. L-40012/226/2003-IR (DU)]

KULDEEP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

I.D. NO. 85/2004

REFERENCE NO: L-40012/226/2003-IR(DU) DATED: 12-7-04

PRESENT:

SHRI SHRIKANT SHUKLA, Presiding officer

BETWEEN:

Shri Shaukat Ali S/o Sh. Wagad Ali
R.T.O. Compound,
Civil Lines,
Gorakhpur

AND

1. The Divisional Engineer (Microwave) Maintenance, BSNL, Goel Building, 2nd Floor, Dharamshala Bazar, Gorakhpur
2. General Manager (Maint.) BSNL, Northern Telecom Region, Akartik Tower, 19 B Fourth Floor, Vidhan Sabha Marg, Lucknow,

AWARD

1. The Government of India, Ministry of Labour, New Delhi vide his order No. L-40012/226/2003-IR (DU) dated 12-7-2004 referred the following dispute to Presiding Officer, CGIT cum-Labour Court, Lucknow for adjudication:

“Whether the action of the management of Post and Telegraph, Microwave Maintenance Gorakhpur (New Bharat Sanchar Nigam Ltd. Microwave Maintenance) In terminating the services of Sh. Shaukat Ali w.e.f. 2-4-80 is legal and justified? if not to what relief he is entitled for?”

Admitted fact of the parties are that the worker Sh. Shaukat Ali was employed on daily wages on muster roll during 31-1-77 to 1-4-80.

Worker's case is that he was during the above period employed with the Bharat Sanchar Nigam Ltd. Goel Building, 2nd floor, Gorakhpur and the opposited party terminated his service by oral orders on 2-4-80. The worker has alleged that he has been perusing the opposite party, but the opposite party only gave assurance but did not act upon his request. The worker obtained the requisite certificate of his working in the year 1986 the copy of which has been filed which are paper no. C-8/2 to C-8/4. The worker was called for the selection on the post of Sweeper by notification on 22-8-89 along with other candidates for interview on 23-8-89. Worker could not succeed in getting the employment. He approached Door Sanchar Mantri, New Delhi in the year 1990. It is also alleged that those recruited

after him have been regularised in the services. He has also alleged that he was terminated without any notice or payment of compensation on 2-4-80 although the worker has worked for more than 240 days. Worker has therefore prayed for reinstatement with full back wages.

Opposite party has filed written statement admitting the work of Shaukat Ali as daily wage on muster roll but has alleged that the worker himself abandoned the job as the salary was very small. As the worker was casual daily wagger therefore no departmental disciplinary action was possible. Ultimately the elder brother of Shaukat Ali named Kallu was engaged in place of Shaukat Ali. The said elder brother of the worker is still working BSNL. Had Shaukat Ali not, abandoned the job he could have retained the work and his elder brother could not have been accommodated. The opposite party has denied that the worker has been perusing the opposite party for employment. The opposite party has stated that the worker for the first time after 11 years approached the opposite party and he was informed that the engagement of daily wagger on muster roll is no more possible as the daily wagger are not engaged on muster roll any more. It is also stated that as and when the worker called for documents from the department the same was made available. So far as the selection of Sweeper in which the worker Shaukat Ali appeared is concerned it is submitted that since Shaukat Ali was unsuccessful in the interview therefore he was not selected. At the end it is submitted that the worker himself abandoned the job at the time the department was under Central Government. It is pointed out that subsequently in Oct. 2000 BSNL came to existence and by that time 20 long years elapsed and delay has not been explained by the worker. Accordingly the opposite party requested to reject the statement of claim.

The worker has filed photo copies of the following documents alongwith his application;

1. Photo copy of Interview letter C-8/5 dt. 22-8-89.
2. Photo copy of application of Shaukat Ali regarding registration in the Employment Exchange during the year 1989.
3. Photo copy of application of Shaukat Ali addressed to the District Engineer, Gorakhpur of Telecommunication Deptt. regarding memo dt. 15-nil-91.
4. Photo copy of the affidavit regarding proof of his age purported to have been verified by the Notary dated 26-7-89.
5. Photo copy of the letter addressed to Door Sanchar Mantri, New Delhi paper no. 8/9, 8/12.
6. Photo copy of letter of Shaukat Ali dated 7-10-91 addressed to Telecom District Engineer, Gorakhpur 8/10, 8/11.

7. Photo copy of Shaukat Ali addressed to Telecom Engineer Gorakhpur dated 28-11-91, 8/13, 8/14, 8/15.
8. Photo copy of Shaukat Ali dated 18-4-92, 15-8-92, 7-9-93, 9-3-93, 18-10-94 C-8/16 to C-8/20
9. Photo copy of letter of Shri V. P. Tripathi, Advocate High Court, Allahabad dated 18-6-96 on behalf of worker Opposite party has filed photo copy of details of Kallu Phone Mech, in which it is mentioned that he entered as casual labour in 1-5-80 and who has become a phone mechanic w.e.f. 17-10-02.

Worker has examined himself as witness and concluded his evidence. Opposite party has not produced any witness on the date fixed nor representative of the opposite party turned up on the date of argument and therefore heard worker's representative alone and perused evidence on record. It is alleged by the worker that he was terminated since 2-4-80 by oral orders of the opposite party. But when he was cross examined by the representative of the opposite party he stated that "काम पर आने से किसी ने मना नहीं किया न ही किसी ने लिखित रूप से मना किया।"

From this statement alone it is satisfied that the worker was not terminated by oral order by the opposite party. The worker has admitted in his evidence on oath that his real elder brother is Kallu alias Ali Raza who has exhibited his unawareness about his present occupation.

Opposite party has specifically mentioned in para 2 of the written statement that the worker himself left the job and he was invited to work orally but he decline the work as the salary was meagre and at end his brother Kallu was engaged who is working in the department and who has now become regular worker. This fact has not been denied by the worker in his rejoinder. He has termed as junior to him and has also admitted in rejoinder that Kallu has been regularised on 17-10-02 and thus the worker was compelled to raised industrial dispute. Worker has clearly mentioned at page 2 of para 2 "तथा वादी को औद्योगिक विवाद उठाने के लिये मजबूर किया गया है जिसकी पूर्ण जिम्मेदारी विभाग की है।"

The cause shown by Shaukat Ali is that since his elder brother Kallu has been regularised on 17-10-02 therefore he was compelled to initiate industrial dispute. Thus there is delay of 22 years in raising industrial dispute there is no explanation as to why he did not raised the dispute within reasonable time after his termination from the services although it is not credit worthy believe that he was terminated by the opposite party. The worker has also not filed the postal receipts of representations of paper No. 8/16 to 8/19.

The worker had a chance to be appointed as regular sweeper in the department in the year 1989 but he

became unsuccessful and therefore he was not selected.

1988 LLJ page 716 between State of Maharashtra and Dynaesnwar Rakmaji Aher & Another is guiding case law on the subject it was held in the said case law of the Bombay High Court.

A workman doing unskilled work on daily wage basis succeeded in his claim made after about 5 years that not giving re-employment to him amounted to illegal termination under Sections 25-F and 25-G of the I.D. Act and obtained an award from the Labour Court for his reinstatement with continuity of service and backwages. The present writ petition impugned the Labour Court's award. The High Court allowed the writ petition and quashed the said award. It observed there was no explanation coming forth from the respondent workman as to why he kept quiet for a long period of five years if his disengagement from service was illegal. There was no dispute regarding alleged illegal termination of service.

While disposing the case the Hon'ble High Court also mentioned the extract of the Hon'ble Apex Court in Inder Singh & Sons Ltd. Vs. Their workmen (196-II-LLJ-89) (SC) in which, *inter alia* it was held that :

"It is true that the laws of limitation which might bar any Civil Court from giving remedy in respect of lawful rights are not and should not be applied by the Industrial Tribunal. On the other hand it is a well accepted stale claims should not generally be encouraged or allowed unless there is a satisfactory explanation for the delay. Apart from the obvious risk to industrial peace from the entertainment of claims after a considerable long lapse of time, it is necessary also to take into account the unsettling effect this is likely to have on the employer's financial arrangement. Whether the claim has become too stale or not will depend on the circumstances of each case." More recently, in the case of R. Ganesh V Union and India & others, reported in 1993 LIC 802 a learned Single Judge of this Court on the point of referring stale case for the adjudication under the Act-held thus:

"It is true that the Act does not lay down a period of limitation. This however, does not mean that dispute can be raised at any time, even after an inordinate delay and the Government is bound to make a reference. It there is an inordinate delay that can be a legitimate ground for holding that there does not exist at present an industrial dispute."

In the present case there is no *iota* of explanation coming forth from the worker as to why he keep quite for long period of more than 20 years in approaching proper forum in raising the industrial dispute. In case in the year 1991 his grievance was not looked into he could have approached the conciliation machinery by raising industrial dispute and his conduct of keeping silence for over 20 years is fatal for success of his claim. Again the present case the case law of Administrative Tribunal of the United

Nations, Geneva between Douville and The Secretary General of the United Nations is relevant the principle of law was held is as follows;

"The U.N. Administrative Tribunal while rejecting the appeal held that the application should have filed an appeal on the date of the decision depriving her of her entitlement in 1986 and not after a favourable decision was rendered in another case in Jan., 1991. The tribunal recalled in this connection its earlier judgment where it observed that ordinarily when timely efforts to vindicate a claim are of importance because of potential prejudice resulting from delay, logic suggests that the standing point for measurement of the delay is the point at which one knows, or should have known, of the existence of the claim, not the time when a potentially favourable decision in another case is rendered—"

In the present case the worker was compelled to raise industrial dispute only because his elder brother Kallu was regularised on 17-10-02. It is because of this reason that he came forward with the false claim of termination whereas I come to the conclusion that he was not terminated rather he himself left the job of Telecom Department of his own. Therefore the issue is answered against the worker and I also come to the conclusion that worker is not entitled to any relief

LUCKNOW 4-10-2005

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन इ पी सी एअर लाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 286/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-11012/06/98-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.286/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workmen, which was received by the Central Government on 13-10-2005.

[No. L-11012/06/98-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, CHENNAI

Monday, the 8th August, 2005

PRESENT :

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 286/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 f 1947), between the Management of NEPC Airlines and their workmen)

BETWEEN :

The General Secretary, : I Party/ Claimant
NEPC Airlines Employees Union,
Chennai.

And

The Chairman : II Party Management
Managing Director
NEPC Airlines,
Chennai.

APPEARANCE :

For the Petitioner : None

For the Management : M/s. S.R. Rajagopal,
Advocates

AWARD

1. The Central Government, Ministry of Labour vide Order No. L-11012/06/98-IR (C-I) dated 17-12-2003 has referred this industrial dispute to this tribunal for adjudication. The Schedule mentioned in that order is—

"Whether the action of the management of NEPC Airlines in not paying the bonus to the employees for the years 1996 and 1997 and in not granting the annual increment during 1996-97 is justified? If not to what relief they are entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 286/2004 and notices were issued to both sides. Even after several notices, the Petitioner Union has not appeared before this Court and therefore, the I Party/ Claimant is set ex-parte. The Respondent though entered appearance through an advocate, they have not filed any memo of objection or Counter Statement before this Tribunal.

3. I think, both the Petitioner and Respondent are not interested in prosecuting this industrial dispute. Therefore, this Tribunal is not in a position to pass any Award without filing of Claim Statement or Counter Statement by the parties.

4. As such, 'No Relief Award' is passed in this industrial dispute. Thus, the reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th August, 2005.)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 305/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/297/2000-आई.आर. (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 305/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of TISCO and their workmen, which was received by the Central Government on 13-10-2005.

[No. L-20012/297/2000-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of I.D. Act, 1947.

Reference No. 305 of 2000

PARTIES : Employers in relation to the management of Bhelatand Washery of M/s. TISCO

AND

Their Workmen.

PRESENT : Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Employers : Shri D.K. Verma, Advocate

For the Workman/
Union : Shri D. Mukherjee, Secretary
Bihar Colliery Kamgar Union.

State : Jharkhand Industry : Coal.

Dated the 16th September, 2005

AWARD

1. By Order No. L-20012/297/2000 (C-I) dated 30-10-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Bhelatand Washery of M/s. TISCO in terminating the services of Probodh Kumar Sahani with effect from 24-4-97 was legal and justified? If not, to what relief the concerned workman is entitled?"

2. In case of the sponsoring union, in brief, is that the concerned workman Probodh Kumar Sahani was working as permanent Stenographer against permanent vacancy at Bhelatand Washery since 24-3-1995 till 24-4-1997 when his service was terminated without complying with the provision of Sec. 25F of the Industrial Disputes Act. Therefore the termination was ab initio void and illegal and the concerned workman is entitled for reinstatement with full back wages.

3. The case of the management, on the other hand, is that in the month of May, 1993 the management issued a notice for appointment of Stenographer from the dependants of the employees of the Company, and accordingly, the concerned workman submitted his application. He was called for interview and test by the Selection Committee. But the concerned workman was not suitable for his appointment as he could not pass the trade test in view of low speed of stenography : being much below 80 w.p.m. The concerned workman approached the management for considering his case as temporary stenographer so that he can have a chance to increase his speed to the minimum of 80 w.p.m. He clearly stated that he will not make any demand for his permanency or regular employment in future. The concerned workman also submitted an undertaking dated 2-11-1993 to this effect. In pursuance to that *vide* letter dated 7/11-3-1994 the concerned workman was appointed as temporary Stenographer for two months only at the Central Hospital, Jamadoba. He was again given temporary employment for two months by letter dated 30-10-1994 in the Office of Divisional Manager, Jamadoba Group of Collieries, and was again engaged for a period of two months by letter dated 23-3-1995 as per his undertaking. Thus, he was given opportunity to improve his speed and subsequently was denied for giving him further employment as temporary Stenographer as he could not acquire the minimum speed of 80 w.p.m., therefore this not a case of retrenchment, rather a simple case of disengagement on expiry of the term of appointment. The management has admitted that he was given temporary appointment w.e.f. 23-3-95 till 23-4-1997. The management has also taken a plea that the sponsoring union is not a

recognised union under the management of M/s. TISCO, therefore the present dispute is not an industrial dispute. In the circumstances mentioned above, the management has refuted the claim of the concerned workman.

4. Both parties have led oral and documentary evidence in this case. The sponsoring union has examined the concerned workman, Probodh Kumar Sahani who has admitted that initially he was given temporary appointment of two months on 18-3-1994 and for two months on 31-10-1994. For the third time he was appointed on 25-1-1995 and again for two months on 24-3-1995. But after expiry of two months from 23-3-1995 he was not stopped from work and he went on doing the job continuously between 23-3-1995 to 24-4-1997 without any further appointment letter. According to him, he continued to work from 24-3-1995 to 24-4-1997 continuously and regularly and in each calendar year he has put in attendance for more than 240 days. The management's witness MW-1 M.P. Singh who is Head of Bhelatand Washery has admitted that after 24-3-1995 he has not seen any appointment letter. However, MW-1 has produced some appointment letters which have been marked Ext. M-1 series to show that even after the alleged date of the retrenchment on 24-4-1997 the management has issued temporary appointment letters, but he has admitted that there is no document to show that those appointment letters were served to the concerned workmen. Thus, from the evidence of WW-1 Probodh Kumar Sahani, the concerned workman and MW-1 M.P. Singh, the Head of Bhelatand Washery it is crystal clear that although the concerned workman was appointed temporarily for two months by letter dated 24-3-95 for the last time but after expiry of two months he was not stopped from work and he went on doing permanent job of Stenography till 24-4-97. Therefore, the concerned workman was not stopped from duty on expiry of term of appointment. Again it appears that the concerned workman has been allowed to work for the entire year 1998. The concerned workman has submitted his Pay slips from which it appears that from the year 1998 also he has performed 225 days actual work besides that if added Sundays and paid holidays then also it comes to 266 days in the year 1998, i.e. even after the retrenchment.

5. The management has produced undertaking letter which was filed by the concerned workman initially before the management making prayer for giving him a chance to work and improve his proficiency of work. But it is clear that as per that undertaking he was given two months work from 18-3-1994 i.e. upto 17-5-1994 and again for two months from 31-10-1994 to 30-12-94 and 25 days from 25-1-1995 to 20-2-1995 and thereafter from 24-3-1995 till 24-4-97 i.e. almost for more than two years. The concerned workman has filed the copy of Pay Slip and has also filed a letter of the management dated 27-28-1-97 addressed to Sr. Divisional Manager (P&W), Jamadoba by Dy. Divisional Manager, Bhelatand Washery by which it has been

mentioned that the concerned workman, Probodh Kumar Sahani is working continuously as temporary Stenographer from March, 1995 and therefore he shall be thankful if he is confirmed as permanent. Therefore, from this Ext. W-1 it appears that the concerned workman was working continuously from March, 1995 to January, 1997. He has also filed another letter of Asstt. Divisional Manager, Bhelatand Washery (Ext. W-2) addressed to Divisional Manager (P&W), Jamadoba of the company mentioning that the concerned workman, Probodh Kumar Sahani was deputed as a temporary Stenographer for a period of two years w.e.f. 24-3-95 and his performance was watched and found to be quite satisfactory. Therefore, he may be confirmed or his temporary employment or may be extended for another three months. There is a similar letter dated 21/22-8-1996 to the same effect (Ext. W-3). The concerned workman has also filed a letter of Divisional Manager, Bhelatand Washery addressed to Sr. Divisional Manager (P&W), Jamadoba (Ext. W-4) by which request was made for making the service of the concerned workman permanent as he has already worked for one year and eight months on that date. The management has filed notice inviting applications for selection of a Stenographer from the wards of the employees which has been marked Ext. M-1. From this notice it does not appear that notice was for any temporary post of Stenographer. The management has produced Ext. M-2 which is the letter of undertaking of the concerned workman that he may be allowed to work temporarily and he will not claim permanency which is dated 2-11-1993. Ext. M-3 is the appointment letter dated 7-3-1994 by which he was appointed temporarily. Similarly, Exts. M-4 to M-10 are temporary appointment letters out of which Exts. M-2, Ext. M-3, Ext. M-4 and Ext. M-5 are admitted by the concerned workman also and regarding rest appointment letters there is no document to show that they have served upon the concerned workman and further more, those appointment letters relate to after the alleged date of termination i.e. 24-4-97. The management's witness has admitted that he has got no document to show that appointment letters, Exts. M-6 to M-10 were served upon the concerned workman. Besides that the management has filed minute of the Union Management meeting dated 19-8-99 in which the sponsoring union was not a party.

6. Thus, from the evidence on record the following facts are fully established :—

That the concerned workman had applied for the post of Stenographer as per the Notice of employment published by the management and on his giving undertaking he was temporarily appointed for two months by letter dated 7-3-94; again for two months by letter dated 30-10-94 and lastly for two months by appointment letter dated 23-3-95. But after expiry of two months from 23-3-95 the concerned workman was not dis-engaged rather he was allowed to work as Stenographer upto 24-4-1997 continuously and

his attendance was more than 240 days in each calendar year after 25-3-95 to 24-4-97. The local management of Bhelatand Washery had written letter to Jamadoba TISCO office for making him permanent because his work was found satisfactory. The Managing Director of the company, Shri J.J. Irani has also issued a letter of appreciation dated 1-1-1997 (Ext. W-5) for his exemplary work.

Therefore, the claim of the management that the concerned workman was simply dis-engaged because he could not improve does not appear to be proper. Since the concerned workman was allowed to work after expiry of the period of appointment for more than two years it cannot be said that the status of the concerned workman was that of a worker on contract basis for a fixed period. The status of the concerned workman has become a regular temporary workman when he was allowed to continue even after expiry of two months from 23-5-95 and to do the work upto 24-4-97. Therefore, the plea of the management that it is not a case of retrenchment cannot be accepted. As after expiry of two months from 23-5-95 there was no contract between the concerned workman and the management for any fixed term, therefore there is no question of service being terminated on expiry of that contract and for all practical purpose the dis-engagement of the concerned workman from 24-4-97 is nothing but retrenchment U/S. 2(oo) and does not come within the exception of Sec. 2(oo)(bb) of the Industrial Disputes Act and therefore verbal dis-engagement of the concerned workman without complying the provision of Sec. 25-F is illegal and void.

7. For the discussions made above, I find that the action of the management in terminating the service of the concerned workman, Probodh Kumar Sahani, w.e.f. 24-4-97 is not justified and he is entitled for reinstatement with full back wages and other consequential benefits.

8. Accordingly I render following award :—

The action of the management of Bhelatand Washery of M/s. TISCO in terminating the service of Probodh Kumar Sahani w.e.f. 24-4-1997 is not justified and he is entitled for reinstatement with full back wages and other consequential benefits. The management is directed to reinstate him as temporary Stenographer within 30 days from the date of publication of the award and confirm him in due course, failing which the concerned workman shall be entitled to claim wages/salary as per the salary last paid or wages/salary as prescribed by N.C.W.A. from time to time from the date of termination.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4210.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (Comp. No. 1/2003 Arising : out of Reference 84/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/353/99-आई.आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Comp. No. 1/2003 Arising : out of Ref. No. 84/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 13-10-2005.

[No. L-20012/353/99-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a Complain U/S. 33-A of the I.D. Act,
1947.

Complaint No. 1 of 2003

(Arising out of Reference No. 84 of 2000)

PARTIES :

Joginder Nonia ... Applicant/Complainant

Vs.

Management of Sijua Area of ... Opposite Party
M/s. B.C.C. Ltd.

PRESENT

Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Complainant : Shri S.C. Gaur, Advocate

For the Opposite : None
Party

State : Jharkhand

Industry : Coal.

Dated 28th September, 2005

AWARD

This is a Complaint Under Sec. 33-A of the Industrial Disputes Act, 1947.

2. Shri S.C. Gour, Advocate, appearing on behalf of the Complainant submits that the Complainant of this case wants to withdraw this case because a Reference No. 84 of 2000 is pending before this Tribunal for the same matter.

3. In view of such submission being made on behalf of the Complainant, I render a 'No Dispute' Award in this Complaint Case.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का.आ. 4211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 201/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/393/99-आई.आर. (सी-I)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 201/99) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workmen, which was received by the Central Government on 13-10-2005.

[No. L-20012/393/99-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD**

In the matter of a reference U/S. 10(1)(d)(2A) of I.D. Act

Reference No. 201 of 1999

PARTIES : Employers in relation to the management of Sayal 'D' Colliery of M/s. Central Coalfield Ltd.

And

Their Workmen

PRESENT

Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri K. Chakravarty, Advocate

State : Jharkhand

Industry : Coal.

Dated, the 27th September, 2005.

AWARD

By order No. L-20012/393/99-(C-I) dated 2-12-99 the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of C.C.L. of not referring the concerned workman to Medical Board and to superannuate him from service with effect from 16-4-97 was legal and justified? If not, to what relief the concerned workman is entitled?"

2. This reference case was earlier fixed on 17-10-2005 for argument. But today (27-9-2005) a petition has been filed by the wife of the concerned workman, namely, Smt. Muneshwari Devi, stating therein that as the concerned workman died on 25-5-2005 during the pendency of the reference case, she is unable to contest the case. As such, she has prayed for passing of a 'No Dispute' Award in this case.

3. In view of such prayer I render a 'No Dispute' Award in this reference case.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का.आ. 4212.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-I के पंचाट (संदर्भ संख्या 4/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-11012/71/99-आई.आर. (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4212.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/2000) of the Central Government Industrial Tribunal/Labour Court, New Delhi-I, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India and their workmen, which was received by the Central Government on 13-10-2005.

[No. L-11012/71/99-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESENT:

Shri S.S. Bal, Presiding Officer

I.D. No. 4/2000

In the matter of dispute between :

1. Sh. Kishore S/o Sh. Ram Kishore,
C/o Sh. Ratan Singh Gaur,
Sahbad, Mohammadpur,
New Delhi-110061.
2. Sh. Ram Chander S/o Sh. Muneshwar Ram,
C/o Sh. Ram Singh Lamba Singh
Sahbad, Mohammadpur,
New Delhi-110061

... Workmen

Versus

The Senior Manager,
Air India, Air India Complex,
I.G.I. Airport, Terminal-II,
New Delhi-110037

... Management

APPEARANCES:

None for the workman

Sh. V.P. Gaur A/R for the management

AWARD

The Central Government in the Ministry of Labour
vide its Order No. L-11012/71/99-IR(C-I) dated Nil has
referred the following Industrial dispute to this Tribunal
for adjudication :

“क्या एयर इंडिया के प्रबंधन द्वारा सर्वश्री किशोर कुमार एवं
रामचन्द्र सफाई कर्मचारी को क्रमशः 8-10-90 एवं 1-2-95 से
नियमित न किया जाना तथा क्रमशः 1-8-95 एवं 1-2-96 से
छंटनी किया जाना विधिवत् नियमानुसार एवं न्यायोचित है ? यदि
नहीं तो कर्मकार किस राहत, के पात्र हैं तथा किस तारीख से ?”

“Whether the action of the management of Air India
is not regularising the service of S/Sh. Kishore Kumar
and Ram Chander, Sweeper w.e.f. 8-10-1990 and
1-2-95 respectively and terminating their service was
1-8-95 and 1-2-96 respectively is proper & justified?
If not to what relief the workmen are entitled?”

2. Brief facts of this case as culled from record are
that the dispute about regularisation and reinstatement of
the services of S/Sh. Ram Chander and Kishore Kumar
workmen was referred for adjudication. However, Sh. Ram
Chander workman only has preferred claim in response to
the reference. The workman Sh. Ram Chandr claims to
have worked as sweeper in the establishment of Air w.e.f.
1-2-95 and his services were terminated from 1-2-96 and he
was drawing monthly wages of Rs. 1750 PM. He worked
sincerely and there was no complaint against him about
the performance of discharge of duties. It is further averred
that the Respondent has to engage contractor for calling

the workers to do the job of sweeping/cleaning. He was
engaged by the respondent through the contractor
company. M/s. Sparkling Enterprises, WZ-2, Shadh Nagar,
Mangalapuri, Palam Colony, New Delhi-11045. The
proprietor of the company is Ramjan Khan. The Central
Government issued a notification dated 9-12-1976 prohibiting
contract labour system in the category of Sweeping,
cleaning, dusting and watch and ward staff in the
establishments owned and occupied by the authorities in
respect of which the appropriate Government under the
Contract Labour (Regulation & Abolition) Act, 1970 is the
Central Government. The establishment of respondent
management falls under this category. Even after this, the
respondent establishment has been engaging the contract
labour in the prohibited categories. Aggrieved by this
regulation some workers approached the courts of law to
get themselves regularised and finally the Hon'ble Supreme
Court in “Air India Statutory Corporation Vs. United Labour
Union” (AIR 1997 SC 645) delivered the judgment dated
6-11-1996 upholding the notification and directed the
respondents to absorb the contract labour working in the
capacity of sweepers and cleaners as regular employees.
The respondent inconnivence with the contractor
terminated the services of the large number of contract
labourers with ulterior motives and in their place engaged
their own kith and kin. The workman would have been
entitled to the job as permanent employees. Workman
claimed that he is entitled to be reinstated to do jobs as his
services have been illegally terminated. It is further stated
that workman served management for more than 240 days.
He was not served with any notice before termination nor
he was paid pay in lieu of notice nor retrenchment
compensation. Hence action of the management is in
violation of provision of Section 25-F of I.D. Act. Workman
sent a demand notice dated 17-12-1997 seeking
reinstatement with full back wages but no response was
received. Hence workman claims to be reinstated with full
back wages in job with continuity of service.

3. The claim has been contested by the management
by filing reply raising preliminary objection that the
workman never appointed to the air India and as such he is
not entitled to the relief of reinstatement or any other relief.

4. Written statement was followed by rejoinder
wherein averments made in claim statement were reiterated
as correct and controverted pleas in the W.S. were
repudiated.

5. Thereafter matter was fixed for filing of documents
4-2-2004. Workman is not appearing for the last three
hearings. In this time the management moved an application
which stands disposed of today.

6. The fact that workman is not appearing for the
last so many hearing goes to show that he is not interested
in the prosecution of this claim. Hence ‘No Dispute Award’
is passed accordingly. In view of the above facts. File be
consigned to record room.

S.S. BAL, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का.आ. 4213—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद I के पंचाट (संदर्भ संख्या 270/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/117/2000-आई आर (सी-1)]

एस.एस.गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4213—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 270/2000) of the Central Government Industrial Tribunal/Labour Court Dhanbad -I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 13-10-2005.

[No. L-20012/117/2000-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD.

In the matter of a reference U/S. 10 (1) (d) (2A) of I.D. Act.

Reference No. 270 of 2000

PARTIES:

Employers in relation to the management of
Jayrampur Colliery of M/s. B.C.C.Ltd.

AND

Their Workmen.

PRESENT:

Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Employers : Shri D.K. Verma,
Advocate.

For the Workmen : Shri S. C. Gour,
Advocate.

State : Jharkhand. Industry : Coal

Dated, the 27th September, 2005

AWARD

By Order No. L-20012/117/2000-IR (C-I) Dated 14-9-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following Dispute for adjudication to this Tribunal:—

“Whether the action of the management of Jayrampur Colliery of M/s. BCCL in not correcting the date of birth of Sri Surya Nath Saw, Attendance Clerk as 25-11-53 as per Matriculation Certificate is justified? If not to what relief the workman is entitled to?”

2. A memorandum of settlement duly signed by both the parties setting the dispute amicably, has been filed before this Tribunal. I have gone through the terms and conditions of the said settlement and I find that the same is fair and reasonable.

3. Accordingly, I pass an award on the basis of memorandum of settlement. The memorandum of settlement shall form part of the Award.

SARJU PRASAD, Presiding Officer

MEMORANDUM OF SETTLEMENT

PARTIES:

Representing Workmen

1. Sri R.P. Srivastava,
P.M. Lodna Area
AND
2. Sri C. N. Singh
P. M. Jayrampur
Colliery

1. Sri Madhob
Chakrabarty
2. Sri Suraj Nath Saw
concerned workman.

SHORT RECITAL OF THE CASE.

An I.D was raised by the concerned workmen, Suraj Nath Saw for correction of D.O.B. as per his Matriculation Certificate obtained prior to coming Service of M/S. B.C.C.L. and in conformity of 1-1-76 of J.B.C.C.I. The Ministry referred the matter to C.G.I.T No. (1) at Dhanbad for adjudication where it was Registered and numbered as Reference No. 270 of 2000. The workman and the Union amicably settled the matter of age dispute out side the C.G.I.T., with the under noted terms and conditions, treating the settlement as fair, proper and reasonable.

TERMS AND CONDITIONS

(1) Date of birth of Suraj Nath Saw the concerned workman shall be recorded as 25-1-1953 as in all the records of Jayrampur Colliery.

(2) Agreed by the parties to file copies of this Settlement through the sponsoring Union in Reference No. 270 of 2000 in C. G. I. T. No. (1), Dhanbad with request to pass AWARD accordingly.

(3) There remains nothing to be adjudicated and the dispute/ reference is accordingly settled in T.C.T.O.

Representing workmen

1. (Madhob Chakrabarty)

2. (Suraj Nath Saw concerned workmen)

Representing Management.

1. (R.P. Srivastava) P.M. Lodna Area

AND

(C.N.Singh) P.M. Jayrampur Colliery
Part of the Award.

WITNESSES

1. रमजान मियाँ 01210806

हाजरी लिपिक

2. कालेख महतो महर्ता 00848812

वाई. ई. ओ.

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4214—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रय न्यायलय धनबाद I के पंचाद (संदर्भ संख्या 276/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/113/99-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October 2005

S.O. 4214—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 276/2000) of the Central Government Industrial Tribunal/Labour Court Dhanbad I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of TISCO and their workman, which was received by the Central Government on 13-10-05.

[No. L-20012/113/99-IR (C-1)]

S.S. GUPTA, Under Secy..

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD.

In the matter of a reference U/S. 10 (1) (d) (2A) of I.D. Act.

Reference No. 276 of 2000

PARTIES:

EMPLOYERS IN RELATION TO THE
MANAGEMENT OF M/S. TISCO LTD. JAMADOBA

AND

Their Workmen

PRESENT:

Shri Sarju Prasad, Presiding Officer

APPEARANCES:

For the Employers : Shri D.K. Verma,
Advocate.

For the Workmen : Shri A. D. Choudhery
Authorised Representative.

State : Jharkhand. Industry : Coal.

Dated, the 27th September, 2005.

AWARD

By Order No. L-20012/113/99-IR (C-1) Dated 18-8-1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the

Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:—

“Whether the demand of the Union to regularise Shri Rajesh Kumar, Fitter-cum-Operator in service by the management is proper & justified? If so, to what relief the workman is entitled to?”

2. A memorandum of settlement duly signed by both the parties settling the dispute amicably, has been filed before this Tribunal. I have gone through the terms and conditions of the said settlement and I find that the same is fair and reasonable.

3. Accordingly, I pass an award on the basis of memorandum of settlement. The memorandum of settlement shall form part of the Award.

SARJU PRASAD, Presiding Officer.

FORM—H

[Rule 58 of Industrial Disputes (Central) Rules, 1957]

MEMORANDUM OF SETTLEMENT

For the Employers :

1. Sri P.K. Pattanayak
Chief (HR/IR) Jharia
M/s. Tata Iron &
Steel Co. Ltd.
PO : Jamadoba
Dist : Dhanbad.

2. Sri A.K. Thakur
Manager (HR/IR)
Bhelatand A. Colliery
M/s. Tata Iron &
Steel Co. Ltd.
PO : Jamadoba
Dist : Dhanbad.

For the Workman :

1. Sri C.S. Yadav
Secretary, R.C.M.S.
Bhelatand A. Colliery
Branch

2. Sri S. Upadhyay
President, R.C.M.S.
Bhelatand A. Colliery
Branch

3. Sri Rajesh Kumar
Temporary F.C.O.
P.No. 221606
Bhelatand Washery

SHORT RECITAL OF THE CASE.

Whereas in the year 1998, the then Secretary, Rashtriya Colliery Mazdoor Sangh, Bhelatand Branch had raised an Industrial Dispute demanding regularization of Sri Rajesh Kumar, Temporary Fitter-cum-Operator, Bhelatand Washery on permanent roll of the Company on the ground of his continuous engagement. The dispute was seized into conciliation and due to divergent views of the parties, the conciliation ended in failure.

Whereas consequent upon failure of conciliation, the matter was referred by the Ministry of Labour, Government of India, New Delhi to Central Government Industrial Tribunal No. 1, Dhanbad for adjudication vide

Order No. L-20012/113/99-IR (C-1) dated 18-8-1999. The terms of reference is as follows :—

“Whether the demand of the union to regularise Shri Rajesh Kumar, Fitter-cum-Operator in services by the management is proper & justified ? If so, to what relief the workman is entitled ?”

Whereas the Hon'ble Tribunal registered the said reference as Ref : Case No. 276 of 2000.

While the matter is pending before the Hon'ble Tribunal, the Secretary, Rashtriya Colliery Mazdoor Sangh, Bhelatand Branch as well as concerned workmen *vide* their application dated 10-08-2005 approached the Hon'ble Tribunal and the management for settling the dispute mutually through the process of bilateral negotiations.

And whereas the matter was discussed at length on several occasions and finally today *i.e.* on 23rd September, 2005, wherein both the parties have agreed to settle the case fully and finally on the following terms and conditions.

TERMS AND CONDITIONS

That, it is agreed :—

- (1) That, Sri Rajesh Kumar will be treated to be permanent from the date of his initial engagement *i.e.* from 19-04-1995.
- (2) That, Sri Rajesh Kumar, on his permanency from the initial date of engagement shall be entitled for notional increments only.
- (3) That, Sri Rajesh Kumar shall not be entitled for back wages or any other monetary benefits arising out of this settlement.
- (4) That, the concerned workman shall not raise any dispute in future before any forum for payment of back wages or any other monetary benefits.
- (5) That, the settlement will be treated as full and final in respect of all claims arising out of the industrial dispute referred to above and no further claim will be made by the union/workman upon the management in this regard.
- (6) That, the parties shall jointly file a copy of this Settlement before the Central Government Industrial Tribunal No. 1, Dhanbad with a prayer to treat the dispute mutually resolved and for giving a consent Award in terms thereof.

Whereas in acceptance of the terms and conditions of this Memorandum of Settlement, both the parties have given their signatures thereof on this day of 23rd September, 2005.

For the Employers : For the Workman

- | | |
|---|--|
| 1. Sri P.K. Pattanayak
Chief (HR/IR) Jharia
M/s Tata Iron &
Steel Co. Ltd.
PO : Jamadoba
Dist : Dhanbad. | 1. Sri C.S. Yadav
Secretary, R.C.M.S.
Bhelatand A. Colliery
Branch |
| 2. Sri A.K. Thakur
Manager (HR/IR)
Bhelatand A. Colliery
M/s Tata Iron &
Steel Co. Ltd.
PO : Jamadoba
Dist : Dhanbad. | 2. Sri S. Upadhyay
President, R.C.M.S.
Bhelatand A. Colliery
Branch |
| | 3. Sri Rajesh Kumar
Temporary F.C.O.
P.No. 221606
Bhelatand Washery |

WITNESSES

- | | |
|---|---|
| 1. Sri S.S. Zama
Regional President,
R.C.M.S.
TISCO Region | 1. Sri S.K. Mahato
Regional Secretary,
R.C.M.S.
TISCO Region |
|---|---|

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद I के पंचाट (संदर्भ संख्या 9/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/17/2003-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2004) of the Central Government Industrial Tribunal/Labour Court Dhanbad I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 13-10-05.

[No. L-20012/17/2003-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD.

In the matter of a reference U/S. 10 (1) (d) (2A) of I.D. Act.

Reference No. 9 of 2004.

PARTIES : Employers in relation to the management of
Sijua Area M/S. B.C.C. Ltd.

AND

Their Workman.

PRESENT:

Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Employers : Shri D.K. Verma,
Advocate.

For the Workmen : Shri P. R. Shukla, Secretary,
Bihar Janta Khan Mazdoor
Sangh.

State : Jharkhand. Industry : Coal.

Dated, the 23rd September, 2005.

AWARD

By Order No. L-20012/17/2003-IR (C-1) Dated 24-12-2003 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:—

“Whether the demand of Bihar Janta Khan Mazdoor Sangh from the management of Sijua Area of M/s. B.C.C. Ltd. that Shri Rajendra Choudhary should be regularised as H.M. V. Driver is proper & justified? If so, to what relief the workman is entitled and from which date?”

2. Shri P. R. Shukla, Secretary of the sponsoring union, appearing on behalf of the concerned workman has submitted that the concerned workman is not interested to contest the case and as such he has prayed to pass a ‘No Dispute’ Award in this case.

3. In view of such prayer being made on behalf of the concerned workman, I render a ‘No Dispute’ Award in the present reference case.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का.आ. 4216—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद I के पंचाट (संदर्भ संख्या 98/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं एल-20012/457/93-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October 2005

S.O. 4216—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/94) of the Central Government Industrial Tribunal/Labour Court Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of BCCL and their workman, which was received by the Central Government on 13-10-2005.

[No. L-20012/457/93-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD.**

In the matter of a reference U/s. 10 (1) (d) (2A) of I.D. Act.

Reference No. 98 of 1994

PARTIES : Employers in relation to the management of Bhalgora Area of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT:

Shri SARJU PRASAD, Presiding Officer

APPEARANCES:

For the Employers : Shri D.K. Verma,
Advocate.

For the Workmen : Shri D. Mukherjee,
Advocate

State : Jharkhand. Industry : Coal.

Dated, the 28th September, 2005.

AWARD

By Order No. L-20012/457/93-IR (Coal-I) dated the 8th April, 1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:—

“Whether the action of the management of Bhalgora Area of M/s. BCCL, P.O. Jharia, Dist. Dhanbad in dismissing/terminating the services of Shri Ram Pravesh Paswan and 37 other workmen (as per list enclosed) w.e.f. 13/20-4-1993 and not allowing them in service of the company is justified? If not, to what relief these workmen are entitled to?”

“Corrigendum of even no. dated 17/24-2-97 received as follows :

The name of workman at sl. no. 3 is Shri Jagu Das, Name at sl. no. 23 corrected as ‘Binod Das’ and Name at sl. no. 26 corrected as ‘Umesh Rohidas’.”

2. The case of the sponsoring union is that the concerned workmen, Ram Pravesh Paswan and 37 others, whose names find place in the terms of reference, were appointed by the management of Bhalgora Colliery as

Minor/Loader for doing the work at Burragarh, Hurriladih and Simlabahal Collieries.

They were subsequently chargesheeted for having committed misconduct under Clause 26-1-11 and 26-1-12 of the Certified Standing Orders of the Company by letter dated 2/7-4-1992 and were put under suspension. The concerned workmen submitted their explanation to their respective chargesheets. However the management did not find the same to be satisfactory and ordered for enquiry. The domestic enquiry was not fair and proper yet on the basis of the finding of the domestic enquiry the concerned workmen have been terminated from service by way of discharge. The allegation against all the concerned workmen were the same. The first allegation was that they in connivance with a Clerk and Personnel Manager of the Company got themselves appointed although their names did not find place in the list of 319 persons in the panel for appointment prepared by Bhowra Area of the management. The second allegation against them was that they have submitted forged and fabricated documents in order to secure employment in Bhalgora Area/Collieries of BCCL. Thus, they have committed misconduct as mentioned in Clause 26-1-11 and 26-1-12 of the Certified Standing Orders.

3. The management has asserted in the written statement that the present dispute is not an industrial dispute and the appropriate Government ought not have referred this dispute to this Tribunal for adjudication. The further case of the management is that the concerned workmen in connivance with the Dealing Clerk, Jitendra Kumar Adeshra and the then Personnel Manager, Sri P.M. Prasad by practising fraud and dishonesty got to be appointed in the service of Bhalgora Area of BCCL although their names do not find place in the list prepared by Bhowra Area sometime in the year 1986 and sent to Bhalgora Area for appointment. Since the appointees adopted mal- practice in getting into employment of BCCL they were all chargesheeted and a domestic enquiry was held in which they were held guilty and on the basis of the report of the Enquiry Officer the concerned workmen have been discharged from service.

4. The issue of fairness and propriety of the domestic enquiry was taken up as preliminary issue and by order dated 22-11-1995 it was held that the Enquiry Officer was improperly appointed and was incompetent to conduct the enquiry as per Clause 27.2 of the Certified Standing Orders of the Company. Therefore, the domestic enquiry is not fair and proper. In the same order it was held that the management in its written statement has not made any prayer that in case this Tribunal decides that the domestic enquiry was vitiated then the management should be allowed to adduce evidence. Therefore, the management was not allowed to adduce evidence and award was submitted in this case on 13-6-2000. Subsequently the award was challenged by filing CWJC No. 4349/2000 before

the Hon'ble Jharkhand High Court. The Hon'ble Jharkhand High Court by order dated 31-7-2001 has remanded back the case with direction to allow the management to adduce evidence on merit to justify its action. In pursuance of that the management has examined two witnesses and have filed certain documents in support of the action taken by the management.

5. At the outset it is worth to mention that the management has filed appointment letters of the concerned workmen from which it appears that the concerned workmen have been appointed by appointment letters duly signed by the General Manager of Bhalgora Area sometime in the year 1991. The copy of the appointment letters have been produced by the management itself. Thus, it is clear that the management has appointed the concerned workmen under the signature of the General Manager of Bhalgora Area. It is not disputed at all that the General Manager of Bhalgora Area is a competent authority for appointment of miner/loaders. Therefore, it is apparent that they were appointed by the competent authority sometime in the year 1991 and 1992 and the concerned workmen have been discharged from service by the Project Officer of respective Collieries of Bhalgora Area in the year 1993.

6. Although in the chargesheet issued to the concerned workmen one of the charge is that they have submitted forged and fabricated documents in order to obtain employment, but the management has not led any evidence on this point. Therefore, I find that the management has not been able to show that the concerned workmen have got employment by submitting forged and fabricated documents.

7. The management has examined two witnesses to support the fact that their names do not find place in the panel/list prepared by Bhowra Area sometime in the year 1986 after taking trade test for appointment and from that list appointments were made at Bhowra Area of BCCL and thereafter the list of surplus candidates were forwarded to Bhalgora Area for appointment in which the names of the concerned persons do not find place. The management has not filed the panel list of 319 candidates prepared sometime in the year 1986 after trade test and interview selected for appointment in different collieries. Therefore, the very list in which the names of the concerned workmen is said to be not included has not been filed by the management for the reason best known to the management. The management has not even filed day to day proceedings of the Appointing Committee. The management has simply filed the list of candidates sponsored by the Employment Exchange to the General Manager, Area No. II, Area Office, Bhowra, Dhanbad. These lists have been marked Exts. M-3 to M-3/3. These lists were not sent to Bhalgora Area rather these lists were forwarded to Bhowra Area. There is no endorsement or any forwarding letter from which it can be inferred that these lists were sent to Bhalgora Area for considering the appointment of the candidates mentioned

in the list. The management has filed five forwarding letters addressed to the General Manager of Bhalgora Area from which it appears that the first letter contains the name of 122 candidates who were not called for interview. There is another list of 40 persons who were not resident of Dhanbad and Giridih Districts and the list of 38 persons alongwith some enclosures like original registration cards issued by the Employment Exchange, file of entire papers and xerox copy of Caste Certificates. This letter Ext. M-4 is dated 13-11-1990. There is another letter dated 14-11-90 by which certain papers were sent and fresh list of 82 candidates have been mentioned. The third letter is dated 29-11-90 and the fourth letter is dated 20/21-12-90 by which certain list of candidates were sent to the General Manager of Bhalgora Area from Bhowra Area, but in these letters there is no endorsement for having receipt at Bhalgora Area. These are rather office copies of the letter issued from Bhowra Area, but the management has not adduced any evidence to prove that the same were received in the office of General Manager of Bhalgora Area. The management's witness was cross-examined on this point and MW-1 Ram Janam Singh has admitted that from Ext. W-4 series it does not appear as to when the same were received by Bhalgora Area. He has claimed that the same were sent through Peon Book, but has admitted that the said Peon Book has not been filed in this instant case. Thus, from the evidence of MW-1 and documents adduced it is apparent that there is nothing to show that either Ext. M-3 series the list of candidates received from the Employment Exchange or the letter of Bhowra Area was at all received in the office of General Manager, Bhalgora Area. The management has not filed any document to show that there was any instruction for appointment at Bhalgora Area only from the list prepared at Bhowra Area. On the other hand, MW-1 has admitted that according to Banerjee Committee Report some 5000 to 10,000 persons were to be appointed in the units of M/s. BCCL due to death or shortage of persons working as miner/loaders and accordingly in the term of said report the process for recruitment was initiated. He has admitted that Bhalgora Area and Bhowra Area are two different areas headed by two different General Managers and the General Manager is the Head of the Area. He has also admitted that the vacancy of miner/loaders were filled up in different areas as per their requirement and also following guidelines mentioned in the circular of the Headquarters. The management has not filed any such circular in this case. The management has not filed the papers relating to the procedure adopted for appointment of miner/loaders at Bhalgora Area. MW-2 B.D. Singh, a retired Dy. Chief Personnel Manager of Bhalgora area has stated that there was a guideline from Headquarters for appointment of local SC/ST persons specially belonged to Dhanbad and Giridih districts whose names were recorded in the Employment Exchange from before after taking test. He has come to say that there was a instruction from Headquarters that Bhowra Area should make available few names out of the list

submitted to Bhowra Area for the purpose of making appointment of those candidates at Bhowra Area. But the management has not filed any such instructions or guidelines. If there was any such instruction then it ought to have been filed by the management. The management has not given any explanation of not supplying such instruction or guideline, therefore necessary conclusion which can be drawn is that there was no such circular or instruction from the Headquarters. The management has also not filed the day to day proceedings of the Appointment Committee of Bhalgora Area by which the concerned persons were appointed. The management has suppressed the instruction and guideline issued for appointment of miner/loaders at different areas and for that reason a conclusion can be drawn that there may not be any instruction that the Bhalgora Area should make appointment only from the panel prepared by Bhowra Area. The management has not adduced any evidence to show that the concerned persons have manipulated things in their favour and got appointment letters under the signature of the General Manager of Bhalgora area who is Head of the Area. The General Manager under whose signature the concerned workmen were appointed has not come to depose that he was duded either by the Dealing Clerk, Jitendra Kumar Adeshra and the Personnel Manager, P.M. Prasad. The management has not examined any persons who are concerned with the appointment proceeding of the workmen to prove the charge of getting employment by bringing in connivance with the clerk and Personnel Manager of the Area.

Therefore, I find that the management has not been able to establish the charges levelled against the concerned persons. Therefore, the management has failed to justify the action taken in discharging the concerned workmen from service who were duly appointed by the General Manager of Bhalgora Area. Therefore, the action of the management Bhalgora Area of M/s. B.C.C. Ltd. in dismissing/terminating the services of Ram Pravesh Paswan and 37 other workmen whose names find place in the list of reference with effect from 13/20-4-1993 and not allowing them in the service of the company is not justified and the concerned workmen are entitled for reinstatement into service with half back other consequential benefits.

8. In the result, I render following award—The action of the management of Bhalgora Area of M/s. BCCL in dismissing/terminating the services of Ram Pravesh Paswan and 37 other workmen whose names find place in the list of reference with effect from 13/20-4-1993 and not allowing them in service of the company is not justified and the concerned workmen are entitled for reinstatement into service with half back wages and other consequential benefits from the date of their dismissal/termination. The management is directed to implement the award within 30 days from the date of publication of the award.

SARJU PRASAD, Presiding Officer

**LIST OF THE WORKMEN WHO HAVE BEEN TERMINATED BY THE MANAGEMENT OF BHALGORA
AREA OF M/s BCCL**

Names of the workmen	Designation	Name of the colliery in which working	Date of Terminating/ dismissing
1	2	3	4
1. S/Sri Ram Pravesh Paswan	Miner/Loader	Burragarh	13/20-4-93.
2. Mohan Rajwar	-do-	-do-	-do-
3. Jago Das	-do-	-do-	-do-
4. Mohan Rabidas	-do-	-do-	-do-
5. Angad Rabidas	-do-	-do-	-do-
6. Ramchandra Paswan	-do-	Huriladih Colliery	-do-
7. Mihir Kr. Das	-do-	-do-	-do-
8. Hiru Das	-do-	-do-	-do-
9. Nand Lal Das	-do-	-do-	-do-
10. Saran Das	-do-	-do-	-do-
11. Gholtu Rohidas	-do-	-do-	-do-
12. Fagu Bouri	-do-	-do-	-do-
13. Bhola Rajwar	-do-	-do-	-do-
14. Haripado Das	-do-	-do-	-do-
15. Bhola Nath Das	-do-	-do-	-do-
16. Dasu Das	-do-	-do-	-do-
17. Nepal Rohidas	-do-	-do-	-do-
18. Bidhan Das	-do-	-do-	-do-
19. Uttam Rohidas	-do-	-do-	-do-
20. Mathura Das	-do-	-do-	-do-
21. Vikal Rohidas	-do-	-do-	-do-
22. Raju Bouri	-do-	-do-	-do-
23. Binod Das	-do-	-do-	-do-
24. Chutu Das	-do-	-do-	-do-
25. Dildar Bouri	-do-	-do-	-do-
26. Umesh Rabidas	-do-	-do-	-do-
27. Dhiren Das	-do-	-do-	-do-
28. Shyampado Das	-do-	-do-	-do-
29. Dakshweshwar Rohidas	-do-	-do-	-do-
30. Dilip Kumar Das	-do-	-do-	-do-
31. Sitaram Rohidas	-do-	-do-	-do-
32. Ratan Manjhi	-do-	-do-	-do-
33. Gopal Paswan	-do-	Simlabahal Colliery	-do-
34. Jagannath Das	-do-	-do-	-do-
35. Prafulla Das	-do-	-do-	-do-
36. Bhaktipado Das	-do-	-do-	-do-
37. Kishan Chandra Rohidas	-do-	-do-	-do-
38. Jintendra Bouri	-do-	-do-	-do-

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4217—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि.के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद I के पंचाट (संदर्भ संख्या 275/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/164/99-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October 2005

S.O. 4217—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 275/2000) of the Central Government Industrial Tribunal/Labour Court Dhanbad I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 13-10-2005.

[No. L-20012/164/99-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD.

In the matter of a reference U/s. 10 (1) (d) (2A) of I.D. Act.

Reference No. 275 of 2000.

PARTIES : Employers in relation to the management of Katras Chaitudih Colliery of M/S. B.C.C. Ltd.

AND

Their Workmen.

PRESENT : Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Employers : Shri R.N. Ganguly, Advocate.

For the Workmen/Union : None

State : Jharkhand, Industry: Coal.

Dated, the 27th September, 2005.

AWARD

By Order No. L-20012/164/99-IR (C-1) dated 18-8-1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Katras Chaitudih Colliery of M/S. BCCL in not providing

employment to Sri Basudeo Bhuia, dependant son-in-law of late Lakhna Bhuia, Ex-Hard Coke Trammer under Para 9.4.2 of NCWA-IV is justified? If not, to what relief the dependant son-in-law, namely, Basudeo Bhuia of late Lakhna Bhuia is entitled?”

2. In this case written statement was filed on 16-11-2000 on behalf of the workman. Thereafter several adjournments were granted but till to-day (27-9-2005) none has appeared on behalf of the workman to take any step. It, therefore, appears that neither the concerned workman nor the sponsoring union is interested to contest the case.

3. Under such circumstances, I render a ‘No Dispute’ Award in the present reference case.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4218—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इंडिया लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-II के पंचाट (संदर्भ संख्या 75/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-11012/10/2003-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October 2005

S.O. 4218—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workman, which was received by the Central Government on 13-10-2005.

[No. L-11012/10/2003-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT MUMBAL

PRESENT : B. I. Kazi, Presiding Officer

Reference No. CGIT-2/75 of 2003

Employers in relation to the Management of Air India Ltd.

AND

Their Workmen

(Represented by Air India Employees Guild)

APPEARANCES:

For the Employer : Shri Kumar Vaidyanathan, i/b Rohit Rajpal Puri & CO.

For the Workman : Mrs. P.S. Shetty, Advocate.

Mumbai, Dated, the 31st August, 2005

AWARD

The Government of India, Ministry of Labour, New Delhi, by its Order No. L-11012/10/2003-IR(C-1) dated 10-11-2003 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

SCHEDULE

“ क्या एअर इंडिया इम्प्लाइज गिल्ड की एअर इंडिया लिमिटेड के प्रबंधन से मांग कि जनवरी, 1997 से लागू किए जाने के लिए नए वेतनमान एवं अन्य संबंधित लाभों पर समझौता वार्ता की जाये उचित एवं न्यायसंगत है ? यदि हां तो संबंधित कर्मकार किस राहत के पात्र हैं ? ”

2. On receipt of the Order of Reference from the Government notices were issued to the management and the Union (Ex.2). The matter was adjourned from time to time for filing of Statement of Claim. However, no Statement of claim was filed. On 27-4-2005 Advocates for both the parties remained present and the Advocate for Union filed application (Ex.11) stating that a Memorandum of Settlement was signed between the Management and the Union, and as per the stipulation under point b(x) page 5 of the said Memorandum of Settlement, they file the copy of Memorandum of Understanding and pray for passing a ‘no dispute’ Award in terms of point b(x) of the Settlement dated 25-1-2005. The matter was thereafter adjourned for filing of the original Settlement. For various reasons the matter was adjourned from time to time.

3. On 31-8-2005 Advocates for both the parties appeared. Advocate for Union filed application (Ex. 12) stating that the Settlement was signed between the parties to the Reference in January 2005 and the Board of Directors of the Management have approved the same on 8-7-2005. The Advocate for Union further submitted that in view of the dispute was raised by the parties in the Reference, and its subsequent approval by the Board of Directors, an Award be passed and the matter be disposed off. The advocate for Management consented for the same. Since the dispute is settled, following order is passed :

ORDER

Reference stands disposed of as settled vide Settlement dated 25-1-2005 filed with Ex. 11.

B. I. KAZI, Presiding Officer.

EX. No. 11

**MEMORANDUM OF UNDERSTANDING BETWEEN
AIR-INDIA LIMITED & AIR-INDIA EMPLOYEES’
GUILD**

MEMORANDUM OF UNDERSTANDING REACHED
BETWEEN THE REPRESENTATIVES OF THE
MANAGEMENT OF AIR-INDIA AND THE
REPRESENTATIVES OF THE AIR-INDIA

**EMPLOYEES’ GUILD ON THEIR
CHARTER OF DEMANDS**

Name of the Parties	: AIR-INDIA LIMITED Hansalaya Building, 5th Floor, 15, Barakhamba Road, New Delhi-110001.
	: AIR-INDIA EMPLOYEES’ GUILD Old Airport, Santa Cruz, Mumbai-400 029.
Representing Employer	: Mr. V.A. Ferreira, General Manager-HRD, Mr. S.A. Deshmukh, General Manager-Engg. Capt. V. Kulkarni, Jt. General Manager-Ops. Mr. B.C. Saha, Dy. General Manager- Finance
Representing Air-India Employees’ Guild	: Mr. Y. E. Reddy, President. Mr. George Abraham, General Secretary. Mr. Vilas Bal, Secretary. Mr. S. Khanvilkar, Secretary. Mr. Kailash Bidhalan, Treasurer.

SHORT RECITAL OF THE CASE:

The long term Wage Agreement had expired on 31-12-1996 and a new Wage Agreement was due w.e.f. 1-1-1997.

The Department of Public Enterprises had indicated the policy for the sixth round of Wage Negotiations in Public Sector Enterprises for Trade Unions/Associations in January, 1999. The policy for Board Level and below Board Level posts including non-unionised Supervisors in Public Sector Enterprises was conveyed by DPE in June, 1999. As per the OM dated 25 June, 1999, PSEs making profits consistently for the last three years would be allowed to adopt the scales of pay strictly in accordance with the guidelines. As the Company had declared profits in the preceding three years, the Company requested the Ministry of Civil Aviation to issue a Presidential Directive for commencement of the Wage Negotiations with the Unions/Associations/Guilds.

The policy of the Company has always been to complete the wage negotiations of the ground categories first before negotiating with any other category.

The Unions viz. Air-India Employees' Guild, Air-India Service Engineers' Association and Air-India Employees' Union, agreed to form a Joint Negotiating Team and informed the Company vide their letter No. Cod-02/2004 dated 14 December, 2004. The Joint Negotiating Team informed the Company that they had constituted a team for holding negotiations and arriving at a Settlement on the Charter of Demands pending since 1-1-1997.

The Joint Negotiating Team consisted of the following members:

Air-India Employees' Guild.	Air-India Employees' Union	Air-India Service Engineers' Assn.
Mr. Y. E. Reddy	Mr. R.A.B. Mani	Mr. O. Lobo
Mr. George Abraham	Mr. J.D. Sharma	Mr. N. H. Kapoor
Mr. Vilas Bal	Mr. A.J.A. Raphael	Mr. Vilas Girdhor
Mr. S. Khanvilkar		
Mr. Kailash Bidhalan		

They also informed the Company that they agree to honour and abide by the Memorandum of Settlement arrived at between the Joint Negotiating Team and the Management of Air-India which will be full and final Settlement of the Charter of Demands pending since 1-1-1997 and the same would be binding on them.

The Management and the Joint Negotiating Team commenced their negotiations from 14 December, 2004. The Joint Negotiating Team and the Management came to a Consensus on 21 and 22 December, 2004 on the issue of Grades and Scales, DA Pattern, HRA, CCA, Allowances and Abolition of Restrictive and Unproductive Work Practices.

The negotiations continued on 24 and 25 January, 2005 with the Joint Negotiating Team in order to enter into a Memorandum of Understanding. The management gave to the Joint Negotiating Team a draft Memorandum of Understanding for their approval. However, the Air-India Service Engineers' Association and Air-India Employees' Union refused to enter into an Understanding with the Management. In the case of the Air-India Employees' Guild, they agreed to enter into a Memorandum of Understanding with the Management.

In pursuance to the above the Air-India Management and the Air-India Employees' Guild agreed to enter into an Understanding in respect of the following :

- (1) Scales of Pay : Annexure A
- (2) Allowances : Annexure B

- (3) Abolition of Redundant Allowances : Annexure C
- (4) Abolition of Restrictive & Unproductive work practices : Annexure D
- (5) Repayable advance against arrears of wages from 1-1-1997 to 31-12-2006. : Annexure E

TERMS AND CONDITIONS:

The parties to the Understanding are—

(a) Air-India Limited (hereinafter referred to as the "Management").

AND

(b) Air-India Employees' Guild (hereinafter referred to as the "Guild").

- (i) This Understanding shall apply to all workmen represented by the Air-India Employees' Guild.
- (ii) All existing benefits, obligations, practices arising out of Record Notes, Awards, Settlements, Agreements, Memorandum of Understandings shall continue unaffected except in so far as they are specifically modified in terms of this Understanding.
- (iii) The Guild agrees that all the existing demands are fully and finally settled including the Charter of Demands raised in the pending Reference No. CGIT-2/75 of 2003 (Employers in relation to the Management of Air-India Ltd. and their workmen) and further agrees that during the operation of this Understanding, they will not raise any other demands involving financial commitments.
- (iv) Both the parties agree that an amount as indicated in Annexure E will be paid by way of repayable advance on 28 January, 2005 against arrears arising out of this Understanding, and the remaining arrears amount after adjusting this advance will be paid on mutually agreed dates, subject to financial position of the Company but not later than December, 2006.
- (v) This Understanding is subject to the approval of the Board of Directors of Air-India and the Government of India. Thereafter a Memorandum of Settlement will be signed as per the Industrial Disputes Act, 1947 between the Management and the Guild.

(vi)	<i>During the pendency of this Settlement both the parties agree that they will observe constitutional means by having recourse to the procedure under the Industrial Disputes Act, 1947 in resolving any dispute.</i>	GC	2	OLD	3140-60-3620-80-4180
				NEW	5550-100-7525
		GC	3	OLD	3140-60-3620-80-4180-100-4480
				NEW	5550-100-7350-175-8225
(vii)	<i>The Management and the Guild re-affirm their faith in the Code of Discipline. Both the parties agreed to jointly pursue and promote industrial peace and harmony in the Company so that there is no dispute or interruption in the normal functioning of various Sections, Departments and the operations or services of Air-India Ltd.</i>	GC	4	OLD	3140-60-3620-80-4180-100-4580
				NEW	5550-100-7350-175-8225
		GC	7	OLD	3560-60-3620-80-4180-100-4880
				NEW	6250-100-7350-175-8400-275-8950
		GC	8	OLD	3620-80-4180-100-4880-135-5150-175-5850
				NEW	6380-100-7380-175-8430-275-10630
(viii)	<i>This Understanding is for a period of 10 years from 1-1-1997 to 31-12-2006.</i>	GC	9	OLD	3940-80-4180-100-4880-135-5150-175-5850
				NEW	6750-100-7350-175-8400-275-10600
(ix)	<i>The income tax deduction would be in accordance with the Income Tax Rules, which are in force from time to time.</i>	GC	11	OLD	4180-100-4880-135-5150-175-6200
				NEW	7050-100-7350-175-8400-275-11150
(x)	<i>Both parties agree that this Understanding would be filed before the Central Government Industrial Tribunal Mumbai, for passing a No Dispute Award in pending Reference No. CGIT-2/75 of 2003 (Employers in relation to the Management of Air-India Ltd. and their workmen).</i>	GC	12	OLD	4180-100-4880-135-5150-175-6375
				NEW	7080-100-7380-175-8430-275-11455
		GC	13	OLD	4280-100-4880-135-5150-175-6550-200-6750
				NEW	7180-100-7380-175-8430-275-12005
		GC	14	OLD	4380-100-4880-135-5150-175-6550
				NEW	7250-100-7350-175-8400-275-11700
		GC	25	OLD	4975-175-6550-200-7650
				NEW	8550-275-12400-300-13600
		GC	28	OLD	5675-175-6550-200-7550-225-7775-250-8025
				NEW	9600-275-12350-300-14150
		GC	29	OLD	6375-175-6550-200-7550-225-7775-250-8025-275-8575
				NEW	11500-275-13700-350-15800

22 December, 2004

Dated this 25th day of January, 2005.

ANNEXURE A'

ANNEXURE B'

GRADE-WISE OLD/NEW SCALES OF PAY GROUND CATEGORY

GC	A1	4370-30-4550-40-4750
GC	1A	4750-40-4950-50-5200
GC	1	OLD 2860-40-3140-60-3620-80-3700 NEW 5200-50-5550-100-6850

ALLOWANCES**1. Variable Dearness Allowance :**

- (i) All India Consumer Price Index number for industrial workers (general) based on 1960 = 100 (AICPI) is used for grant of compensation to the employees of PSEs for price rise.

- (ii) DA instalments would be released 4 times a year w.e.f. 1st January, 1st April, 1st July and 1st October.
- (iii) DA would be paid for the increase in AICPI above quarterly index average of 1708 to which the revised scales of pay are related.
- (iv) The percentage increase in the quarterly average of the AICPI for the period ending February, May, August and November over index 1708 would be taken upto one decimal point.
- (v) The rate of compensation of the employees of PSEs over the basic pay at index average of 1708 is also in whole numbers with fractions carried forward.
- (vi) The percentage neutralization to employees in different pay ranges would be 100%.

Foot Note—I

Quarterly average would be computed in the following manner :—

Quarterly Averages	Payable from
September, October and November	1st January
December, January and February	1st April
March, April and May	1st July
June, July and August	1st October

Foot Note—II

The quarterly average of AICPI for the months of September, October and November, 1996 worked out to 1708 and the DA under the IDA scheme at the admissible rates payable from 1-1-1997 is being merged in the basic pay. DA admissible under the new formula evolved for the Public Sector employees would be NIL on 1-1-1997. The first instalment of DA would become due from 1-4-1997.

2. House Rent Allowance :

The workmen will be paid House Rent Allowance with effect from the date of issue of Presidential Directive revising the pay scales as indicated below :

Classification of Cities/Towns	Rates of House Rent Allowance
'A-1'	30% of Basic Pay
'A', B-1 & B-2	15% of Basic Pay
'C'	7.5% of Basic Pay
Unclassified	5% of Basic Pay

Other terms and conditions in regard to payment of HRA will remain unchanged.

3. Rent Recovery :

Rent Recovery will be computed on the basis of standard rent to be fixed by the Company.

4. City Compensatory Allowance :

The workmen will be paid City Compensatory Allowance with effect from the date of issue of Presidential Directive revising the pay scales as indicated below :

Basic Pay per month	A-1 Popu- lation >50 lakhs	A Popu- lation >20 and< 50 lakhs	B-1 Popu- lation >10 and <20 lakhs	B2 Popu- lation >5 and <10 lakhs
Below Rs. 4000	90	65	45	25
Rs. 4001-5250	125	95	65	35
Rs. 5251-6499	200	150	100	65
Rs. 6500 & above	300	240	180	120

5. Other Allowances :

(a) All workmen, covered under this MOU except Service Engineers will be eligible for the following allowances w.e.f. 1-1-1997 :

Grade	Uniform Maint. Allow.	Business Enhance-ment Allow.	Education Allow.	Total
1	400	700	500	1600
2	400	775	550	1725
3	450	825	600	1875
4	450	900	650	2000
7	650	1000	700	2350
8	700	1150	800	2650
9	750	1250	1000	3000
11	800	1400	1100	3300
14	850	1550	1200	3600
25	900	1900	1400	4200

(b) Service Engineers

All Service Engineers covered under this MOU will be eligible for the following allowances w.e.f. 1-1-1997 :

Grade	Uni- form Maint. Allow.	Busi- ness En- hance- ment Allow.	Edu- cation Allow.	Kit Maint. Allow.	Surv. Allow.	SE Allow.	Total
8	500	1300	950	1000	200	200	4150
12	600	1400	1150	1200	200	400	4950
13	850	1600	1300	1400	400	600	6150
25	950	1900	1500	1600	500	1000	7450
28	1050	2100	1700	1800	500	1200	8350
29	1150	2400	1900	2000	500	1400	9350

6. Overtime Rate Compensation

The overtime rate for all workmen will be fixed at the pre-revised basic pay as on 1-2-2005. On subsequent promotion, the fixed overtime rate will be enhanced by 10% of the applicable fixed overtime rate.

7. Transport Allowance

All the workmen will be eligible for a Transport Allowance with effect from 1-2-2005, as under :—

2 Shift Pattern	—	Rs. 200 per month
3 Shift Pattern	—	Rs. 300 per month
Fixed Night Shift Pattern	—	Rs. 400 per month

8. Load Sheet Allowance

The workmen performing this function will be paid Rs. 5000 per month with effect from 1-2-2005. This allowance will cease to be paid as and when the workman ceases to perform this function.

9. Push-back Allowance

The workmen performing this function will be paid Rs. 5000 per month with effect from 1-2-2005. This allowance will cease to be paid as and when the workman ceases to perform this function.

10. Duty Allowance

All eligible workmen who are in receipt of Duty Allowance will be paid @ 10% of the maximum of the revised scales of pay at which a workman is placed effective 1-1-1992.

11. Driving Allowance

The workmen driving the Company vehicles will be paid Rs. 60 per month.

The workmen driving Company vehicles and equipments will be paid Rs. 90/- per month.

This Allowance will cease to be paid as and when the workmen cease to drive the Company vehicle/equipment.

12. Baggage Reconciliation System Allowance

The workmen performing the BRS functions, will be paid BRS Allowance of Rs. 250 per month.

This allowance will cease to be paid as and when the workmen cease to work in that area.

13. RT Allowance :

The workmen who are RT qualified and make use of this qualification will be paid an RT Allowance of Rs. 150 per month.

14. Pension Deduction :

The deduction towards Pension Fund will stand frozen as on 1-2-2005.

ANNEXURE 'C'**ABOLITION OF REDUNDANT ALLOWANCES**

With the signing of the Understanding the following Allowances stand abolished :

- Soap/Duster Allowance
- Sunday Pay
- Machine Duplicating Allowance
- Milk Cost Reimbursement
- Computer Allowance
- Language Allowance
- Driving Approval Allowance
- Diet/Bad Environment Allowance
- Reimbursement of Chappals/Shoes
- Compensation in lieu of Uniform
- Meal Allowance/Incidentals
- Washing Allowance
- Conveyance Allowance
- Productivity Allowance
- Technical Pay
- Special Pay- Housekeeping
- Supervisory Productivity Allowance
- Additional Productivity Allowance
- Tea/Coffee coupons at Trivandrum Airport

ANNEXURE 'D'**ABOLITION OF RESTRICTIVE AND UNPRODUCTIVE WORK PRACTICES**

1. Introduction of Computerised Attendance Monitoring System.

All attendance and related payments will be made only as per the recording by this system.

2. Management to introduce flexible timing within the shift patterns in order to optimize productivity.
3. Inter-changeability of job functions within the respective categories in the Department.
4. Re-engineer the existing job functions to achieve optimum utilization of manpower.
5. Postings to Indian outstations as per Management's requirement.
6. The Management to outsource non-core activities in order to reduce the cost platform.
7. Allocation of jobs to be done by the Management and all existing job ratios to cease to exist.
8. Promotion zones in Engineering to be reduced to 3 to 4 zones only.
9. Overtime as per the requirement and need of the Management and payment on actual basis.
10. Man-hours for completion of jobs to match man-hours given in SBs and Manufacturers recommendations. No. ceiling on production of existing components such as wheels, brakes, etc.
11. Employees to work through break and avail of their meal timings after completion of the job.
12. Management to decide how many working hands to be deployed for a particular type of job.
13. The number of employees to be sent abroad for training, snag rectification, etc. will be decided by the Management.
14. Multi-skilling of employees to achieve flexibility and mobility from one Section/Dept. to another Section/Dept. as per the Management's requirement.
15. Any other direction from the Management, which enhances productivity and eliminates restricted and unproductive work practices.

ANNEXURE 'E'

REPAYABLE ADVANCE AGAINST ARREARS OF WAGES FROM 1-1-1997 TO 31-12-2006

Grade	Amount	
	1	2
GC	1	Rs. 20,000/-
GC	2	Rs. 20,000/-
GC	3	Rs. 25,000/-
GC	4	Rs. 25,000/-
GC	7	Rs. 30,000/-
GC	8	Rs. 30,000/-
GC	9	Rs. 35,000/-

	1	2
GC	11	Rs. 35,000/-
GC	12	Rs. 35,000/-
GC	13	Rs. 35,000/-
GC	14	Rs. 35,000/-
GC	25	Rs. 50,000/-
GC	28	Rs. 50,000/-
GC	29	Rs. 50,000/-



एअर-इंडिया
AIR-INDIA

ओल्ड एअरपोर्ट, कालिना, सांताक्रुज (पूर्व), मुंबई-400 029.

इंडिया. केबल : एअरइंडिया, फोन : 615 7777

Old Airport, Kalina, Santacruz (East), Mumbai-400029. India.

Cable : AIR INDIA Phone : 615 7777

Internet : www.airindia.com

IR/74-63(S)/97/1874

25 January, 2005

Air-India Employees' Guild,

Old Airport,

Santa Cruz (East),

Mumbai-400 029.

Dear Sirs,

Sub :—PLI payment of Technician's Assistants.

The PLI payment of the Technician's Assistants cadre in Engineering and Engine Overhaul Depts. are lower than that of the Technician's Assistants in GSD and other Departments. This is because the parameters for the Technicians's Assistants in Engineering and Engine Overhaul Depts. are that of Aircraft Availability and Dispatch Reliability. The parameters of Technician's Assistants in GSD and other Departments are Pax per employee and On-time performance.

The parameters for the Technician's Assistants in Engineering and Engine Overhaul Depts. were changed from January, 2000, as per their request.

The Management will consider this request for reverting them back to the old parameters and inform the Guild accordingly.

Yours faithfully,

FOR AIR-INDIA LTD.

(V.A. FERREIRA)

General Manager-HRD

एअर-इंडिया लिमिटेड, रजि. कार्यालय : हंसालय बिल्डिंग, 5वीं मंजिल, 15 बाराखंबा रोड, नई दिल्ली-110001 इंडिया. फोन : 373 1225

Air-India Limited, Regd. Office : Hansalaya Building, 5th Floor, 15 Barakhamba Road, New Delhi-110001. India. Phone : 373 1225

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4219.—औद्योगिक विवाद अधिनियम, 1947 (1947 का-14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. का. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद I के पंचाट (संदर्भ संख्या 169/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/304/98-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 14th October, 2005

S.O. 4219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 169/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 13-10-2005.

[No. L-20012/304/98-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/S. 10 (1) (d) (2A) of I.D. Act.

Reference No. 169 of 2000

PARTIES: Employers in relation to the management of Sijua Area of M/s. B.C.C. Ltd.

AND

Their Workman.

PRESENT:

Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Employers : Shri D.K. Verma, Advocate.

For the workman : Shri P.R. Shukla, Authorised Representative

State: Jharkhand. Industrial: Coal.

Dated, the 23rd September, 2005

AWARD

By order No. L-20012/304/98-IR(C-I) dated 30-5-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

"Whether the demand of Janta Mazdoor Sangh from B.C.C.L., Sijua Area for correction of date of birth of Sh. Prabodh Bhattacharjee, Electrician from 2-10-1940 to 5-2-1955 is just and proper? If so, what relief is the workman entitled to?"

2. The case of the concerned workman, Prabodh Bhattacharjee, is that he is a taken over employee of Nichitpur Non-Coking Coal Mines under Sijua Area of M/s. B.C.C.Ltd. He was appointed on 4-11-1972 and

subsequently transferred to Tetulmari Colliery under the same Area from 19-10-1981 as Electrician. He was issued a Service Excerpt in the year 1987-88 in which the date of birth of the concerned workman was mentioned as 2-10-1940 as per record of the colliery. The concerned workman after receipt of the service excerpt appealed to the colliery management for correction of his date of birth on the basis of the School Leaving Certificate and Cross List issued by Bihar Secondary School Examination Board in which his date of birth has been shown as 5-2-1955. According to him, he was a student of Pootkee High School, Dhanbad, and had appeared for final examination of Bihar School Examination Board in the year 1972 but was declared un-successful. The concerned workman subsequently submitted Admit Card of Bihar School Examination Board in which his date of birth was recorded as 5-2-1955. But the management did not correct his date of birth which ought to have been corrected in view of Resolution of JBCCI-IV at the 9th meeting held on 8th/9th, March, 1988. Then he has raised the present industrial dispute.

3. The case of the management, on the other hand, is that as per declaration of the concerned workman his date of birth was recorded as 2-10-1940 at Nichitpur Colliery. He was subsequently transferred to Tetulmari colliery in the year 1981 and in form 'B' Register of Tetulmari colliery his date of birth has been recorded as 2-10-1940 as per last pay certificate received from Nichitpur colliery. The management has admitted that the concerned workman was appointed on 4-11-1972 and worked upto 19-10-1981 in Nichitpur colliery, but prior to his transfer he did not raise any dispute about wrong recording of his date of birth at Nichitpur colliery. Further according to the management, he was served with service Excerpt in the year 1986-87, in that also his date of birth was mentioned, but the concerned workman did not raise any objection of any kind with regard to the date of birth recorded in his service excerpt and at the verge of retirement in the year 1994 he has raised this industrial dispute. The case of concerned workman does not fall under the provision of Implementation Instruction No. 76 of JBCCI, therefore his date of birth recorded in Form 'B' register is final.

4. The management has filed Form 'B' Register of Nichitpur colliery as well as Form 'B' Register of Tetulmari colliery. The form 'B' Register of Nichitpur colliery is Ext. M-4 and from this register it is crystal clear that no date of birth/age has been recorded in this register at the time of entry into service. MW-1-Babulal Turi, who is a clerk at Nichitpur Colliery, has admitted this fact in his examination-in-chief itself. The form 'B' Register of a colliery is a statutory register maintained under the provision of Sec. 48 of the Mines Act and Rules framed thereunder. Thus, it is apparent that in form 'B' Register of Nichitpur colliery where this workman was appointed no date of birth has been mentioned at the time of his appointment. The management has not led any evidence to show that at any point of time his date of birth/age was determined by the Medical Officer of the Company as per the procedure for determination of

age of a workman whose date of birth is not known. Therefore, it is apparent that at the time of appointment the column for date of birth was left blank and the management has not produced any document or evidence to show that the date of birth was subsequently determined by the management under the procedure for determination of age as per the JBCCI instruction. The JBCCI instructions clearly laid down that if a workman is literate one then his date of birth is to be recorded keeping in consideration the School Leaving Certificate/Matriculation Certificate etc. The concerned workman has produced his School Leaving Certificate in which his date of birth has been mentioned as 5-2-1955. Beside the school leaving certificate he has produced duplicate copy of Admit Card issued by Bihar School Examination Board which is Ext. W-3. In that Admit Card also the date of birth of the concerned workman has been mentioned as 5-2-1955. He has also produced attested copy of entries from Tabulation Register of Bihar School Examination Board and it appears that in the Tabulation Register also his date of birth has been mentioned as 5-2-1955. On the other hand, from the Form 'B' Register of the management maintained in Nichitpur Colliery it appears that at the time of appointment no age/date of birth was recorded in Form 'B' Register which is a must as per the provisions of Mines Act and Rules framed thereunder. The management has filed Form 'B' Register of Tetulmari Colliery also in which the date of birth of the concerned workman has been recorded as 2-10-1940 which has been marked Ext. M-1. But in this Form 'B' Register the management has not obtained the signature/thumb impression of the concerned workman as required under column 16 of Form 'B' Register. The management has also produced the service Book maintained at Tetulmari Colliery which has been marked Ext. M-3 in which it has been mentioned that on the basis of Last Pay Certificate his date of birth has been recorded as 2-10-1940. Serial No. 11 of service Book requires an attested copy of documents in proof of age to be kept alongwith Service Book, but the management has not filed any copy of Last Pay Certificate either in original or attested issued from Nichitpur Colliery when the concerned workman was transferred to Tetulmari Colliery. The management has also not produced the Service Book of Nichitpur Colliery regarding this concerned workman. The management has also produced Identity Card Register of Nichitpur Colliery in which the date of birth of the concerned workman has been recorded as 2-10-1940 as per Form 'B' Register. But we have already seen that in Form 'B' Register of Nichitpur Colliery the column for the date of birth/age is blank. The management has also filed a service excerpt issued to the concerned workman in the year 1987. In that service excerpt the date of birth of the concerned workman has been mentioned as 2-10-1940. But it appears that the concerned workman has filed two representations which are dated 31-5-89 and 2-6-94 for correction of his date of birth on the basis of school leaving certificate but the management has not considered his representation. The

management's witness MW-2—Sarda Prasad Singh, personnel Manager, has admitted that in original Form 'B' Register relating to Tetulmari Colliery the necessary particulars of the concerned workman has been mentioned, but this register does not bear the signature of any official of the management or the concerned workman.

5. From the materials available on record it is crystal clear that in Form 'B' Register of Nichitpur Colliery where the concerned workman was appointed, the date of birth of the concerned workman is blank and the management has not been able to prove on the basis of which his date of birth has been mentioned as 2-10-1940 in subsequent record of the company maintained at Tetulmari Colliery. Therefore, I find that in the present case the management ought to have considered the documents in proof of age of the concerned workman or to have referred him to Apex Medical Board in view of the fact that his date of birth was not mentioned at the time of his appointment and the management has not come up with a case that at any point of time his date of birth or age was determined by any Medical Board. Therefore, in my opinion, the demand of the sponsoring union for correction of date of birth of Prabodh Bhattacharjee appears to be justified.

6. In the result, I render following award:—

That the demand of Janta Mazadoor Sangh from M/s. BCCL, Sijua Area for correction of date of birth of Prabodh Bhattacharjee, Electrician, from 2-10-1940 to 5-2-1955 is just and proper and the concerned workman is entitled to be reinstated in service with all back wages and consequential benefits from the date the management has superannuated him and allow him to be in service till he attains the age of 60 years from 5-2-1955. The management is directed to implement this award within 30 days from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2005

का. आ. 4220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 75/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-2005 को प्राप्त हुआ था।

[सं. एल-20012/08/96-आई आर (सी-1)]

एस. एस. गुप्ता, अवसर सचिव

New Delhi, the 14th October, 2005

S.O. 4220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/97) of the Central Government Industrial Tribunal/Labour Court, Dhanbad I. now as shown in the Annexure, in the Industrial Dispute between the employers in relation to

the management of TISCO and their workman, which was received by the Central Government on 14-10-05.

[No. L-20012/08/96-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/S. 10 (1) (d) (2A) of I. D. Act.

Reference No. 75 of 1997

PARTIES: Employers in relation to the management of
Jamadoba Colliery of M/s. TISSCO.

And

Their Workmen.

PRESENT:

Shri Sarju Prasad, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate.

For the Workman : None

State : Jharkhand.

Industrial : Coal.

Dated, the 4th October, 2005

AWARD

By Order No. L-20012/08/96-IR(Coal-I) dated 11-3-1997 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether the action of the management of Tata Central Hospital of M/s. TISCO in denial to provide employment to the dependent of Late Kushalaya Devi is justified? If not, to what relief is the concerned workman entitled?”

2. This reference case is of the year 1997. Despite giving adjournments since 7-5-2003 none is appearing to take any step in this case. Therefore, it is needless to keep this case pending long.

3. Accordingly, I render a ‘No Dispute’ Award in the present reference case.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4221.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-चेन्नई के पंचाट (संदर्भ संख्या आइ डी-121/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/27/2003-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4221—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. No. 121/2003) of the Central Government Industrial Tribunal/Labour Court, Chennai, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/27/2003-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 16th June, 2005

PRESENT.

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 121/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen).

BETWEEN

Sri P. James, Karunakaran : I Party/Petitioner

And

The Assistant General : II Part/ Management
Manager,
State Bank of India, Madurai

APPEARANCE:

For the Petitioner : M/s. R. Arumugam &
Krishnakumar, Advocates

For the Management : M/s. K.S. Sundar &
M. Asha Devi Advocates.

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/27/2003-IR(B-I) dated 18-7-2003 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the action of the management of State Bank of India to removal from service of Shri P. James Karunakaran after imposing the penalty is justified? If not, what relief he is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 121/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was appointed in the Respondent/Bank as clerk-typist on 1-7-78 and he was promoted as stenographer and he was transferred to Tuticorin branch and was working there for 22 years. The Petitioner has purchased a house in Tuticorin partially with his own funds and with the housing loan availed from Respondent/Bank and he has also created mortgage by depositing the title deeds as security for the due repayment of the said loan. While so, the Petitioner and one Mr. Rathnakumar are close friends and they decided to conduct mass religious crusade, for which the Petitioner has obtained a written permission from the Respondent/Bank to be a convener of the said crusade. When money was needed for setting up of an office for crusade, the Petitioner approached Mr. Rathnakumar, who in turn approached M/s. Port City Benefit Fund Ltd. Tuticorin, a finance company for loan of Rs. 1,00,000. The finance company demanded security and Mr. Rathnakumar offered a property for security. During 1996, on the eve of crusade there was a communal clash at Tuticorin and in the process many benevolent philanthropic minded houses and men lost their properties and when the crusade was conducted, money did not flow in to meet out the liabilities undertaken by the Petitioner as expected. To keep his word and commitment, the Petitioner has issued five cheques in favour of the finance company. In the mean time, the Managing Director of the finance company started raiding the house of the Petitioner frequently and during these invasions, he has obtained several blank cheques or filled up cheques, letters and signatures on blank papers and on stamp papers both from the Petitioner. Out of the said cheques, he has presented two cheques to a value of Rs. 1,00,000 and the same was the subject matter of exchange of notice dated 30-8-98 and 8-9-98 and the finance company falsely claimed a huge sum of Rs. 3.80 lakhs as balance due towards the settlement of money availed in the name of Mr. Rathnakumar and by force the said Managing Director took the Petitioner to sub-registrar's office on 16-10-98 and got a power deed registered authorising him to convey his property under sheer threat and by use of force. He further obtained the signature in an agreement. When he prepared the agreement promised the Petitioner that he would not use the power deed for three years. Thus, the Managing Director obtained the power under fraud, coercion and undue influence. The Petitioner by his letter dated 10-9-98 informed the Respondent about his involvement as convener and the difficulties faced by him. In spite of this, the Respondent issued a show cause notice dated 19-11-98 alleging that he was in the practice of availing of loan from outsider and incurring debts and the Petitioner has submitted his explanation for the same. While so, the Managing Director with the concocted power deed alleged to have been executed by the Petitioner has executed the sale deed and purported to have transferred the property to one Mr. M. Sundararamalingam. As soon as the Petitioner came to know about the illegal act, the Petitioner has given a fax message to the Respondent on 14-2-99, even in spite of that the Respondent/Management issued a memo dated 17-3-99 asking about the encumbrance created over the mortgaged property. Even for this the

Petitioner has given an explanation dated 20-4-99. The alleged purchaser Mr. Sundararamalingam is neither a bonafide purchaser nor a purchaser for value entitled for any protection under law and the sale has to be held as void. The Petitioner has also filed a suit for cancellation of sale deed dated 16-10-98 and it was numbered as O.P. 37/2000 on the file of Sub-Court Tuticorin. In the year 1999, the Petitioner applied for advance from the Respondent to avail leave fare concession from 1-2-99. Unfortunately, the Petitioner became sick and was on leave on medical grounds since 18-1-99 and joined duty only on 31-3-99 and he could not undertake the journey as planned. Immediately, on joining duty, on 3-4-99 the Petitioner applied for permission to avail leave fare concession from 26-4-99. But, the permission was not granted to the Petitioner and the same was communicated to the Petitioner at the last moment. The advance amount was also recovered from the salary of the Petitioner with interest. While so, the Respondent/Management issued one charge sheet dated 19-11-98 alleging that the Petitioner is in the practice of availing loan and incurring debts to the extent considered by the Respondent/Bank excessive comparing to Petitioner's known income. Again on 5-6-99 the Respondent/Bank issued 2nd charge sheet alleging that the Petitioner sold the property which was under equitable mortgage with the bank to a third party without prior permission and this action is prejudicial to the interest of the bank and which amounts to an act of gross misconduct. Secondly, the Petitioner has availed leave fare concession and misutilised the amount sanctioned to him on 4-1-99 which is also a gross misconduct in terms of Sastry Award and called for an explanation. Even though the Petitioner has submitted an explanation on 20-4-99 and 21-4-99 the Respondent has initiated disciplinary proceedings. The Petitioner's request to postpone the enquiry till the dismissal of civil suit has been rejected. The Writ Petition filed by the Petitioner was also disposed of by the High Court with an observation that 'the Respondent to consider the claim of the Petitioner'. Without considering the request of the Petitioner the Enquiry Officer proceeded with the enquiry and gave his report holding that all the charges are proved. The said enquiry is not fair, proper and the findings are perverse. But the Disciplinary Authority has accepted the findings of the Enquiry Officer and imposed the punishment of removal from service with immediate effect. Even the Appellate Authority without applying its mind has confirmed the punishment given by the Disciplinary Authority. When the matter was pending before the Civil Court, the enquiry ought not to be conducted against the Petitioner. Without any specific evidence, the Enquiry Officer has held that the charges have been proved. The charges framed against the Petitioner are very vague and without any basis. The Enquiry Officer relied on the evidence collected behind the back of the Petitioner and has given a perverse finding. It is established by the Petitioner that the Managing Director of the finance company namely Port City Benefit Fund as misused the invalid power of attorney to the prejudice of the Petitioner and transferred the property to a third party

fraudulently which is a void transaction. No doubt, the Petitioner has availed leave fare concession, since the Petitioner could not utilise the benefit as he was sick, he applied for availing the benefit of LFC on 26-4-99. While such change of date and change of programme are not uncommon at Tuticorin branch of the Respondent/Bank, the Respondent/Bank has not given necessary permission and he was asked to re-deposit the advance amount with interest and in such circumstances, the third charge framed against the Petitioner is not valid. Further, the Respondent/Bank has not put to any financial loss and there is no irregularity in the conduct of the Petitioner. For such misconduct, the Respondent/Bank has inflicted capital punishment of removal from service and the Disciplinary Authority have also not considered the unblemished past record of the Petitioner during the past 22 years. Therefore, the whole enquiry proceedings are vitiated and besides the punishment imposed is disproportionate to the charges levelled against the Petitioner. Further, this Tribunal has got no power under Section 11A of the I.D. Act to declare that the action of the Respondent/Management in terminating the services of the Petitioner is not justified and the Petitioner prays that an award may be passed directing the Respondent/Bank to reinstate him in service with continuity of service, back wages and attendant benefits.

4. As against this, the Respondent in its counter statement contended that no doubt the Respondent/Bank appointed the Petitioner as clerk-typist on 1-7-78 and the Petitioner was promoted as stenographer in the year 1981, since the Petitioner indulged in certain activities which are prejudicial to the interest of the bank, the Petitioner was asked to explain about the said acts. As there was no proper explanation, the Petitioner was served with charge sheet on 19-11-98. Further, the Petitioner who had availed housing loan of Rs. 3,00,000/- and additional housing loan of Rs. 1.25 lakhs from the bank and the Petitioner who has created mortgage over the said property by depositing the original sale deed dated 19-3-98 in favour of the Respondent/Bank as security for the housing loans availed in the Respondent/Bank was sold to one Mr. Sundararamalingam on 29-10-98 which is against the clause VII of term loan agreement executed by him and therefore, he was issued with a memo calling for explanation and since the explanation was not satisfactory, chargesheet dated 5-6-99 was issued to him. Similarly, the Petitioner has availed advance of Rs. 9200 on 4-1-99 as leave fare concession, but failed to undertake the journey and thereby misutilised the said funds, which is a gross misconduct prejudicial to the interest of the Respondent/Bank. For all these allegations, the Respondent/Bank has initiated disciplinary proceedings. The Petitioner has participated in the enquiry and he availed the opportunity awarded to him as per principles of natural justice. Since the above facts were proved in the enquiry, the Enquiry Officer has held that the charges framed against the Petitioner were proved and he filed his report dated 12-2-2001. After following the procedure, the Disciplinary Authority has given proposed punishment and after considering the statements made by the Petitioner has

imposed the punishment of removal from service by his order dated 27-9-2001. The Appellate Authority after considering the representation given by the Petitioner has confirmed the punishment and dismissed the appeal. The acts of the Petitioner in indulging him heavy and substantial financial crisis and executing power of attorney for selling the security of the bank without obtaining prior permission established that the Petitioner has lost confidence with the Respondent/Bank which is dealing with public money and securities and therefore, the Respondent/Bank could not retain the Petitioner in service of the Respondent/Bank. The claim of the Petitioner that suit has been filed for declaring the sale deed as void and the same was decreed on 16-9-03 is not acceptable. Further, the claim of the Petitioner that there is no financial loss is incorrect. Since the charges are substantial and grave the action taken by the Respondent/Bank is valid in law. Since the punishment of removal is commensurate with the nature of misconducts which were proved in the enquiry, this Tribunal should refrain from invoking section 11A of I.D. Act to give relief to the Petitioner. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my determination are :

- (i) "Whether the action of the Respondent/Bank in imposing the punishment of removal from service on the Petitioner is justified."
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :

6. In this case, three charges were framed against the Petitioner and the Enquiry Officer has held that all the charges have been proved and the Disciplinary Authority has imposed the punishment of removal from service and the appeal filed by the Petitioner was also rejected by the Appellate Authority. In this context, the Petitioner has raised a dispute that the findings given by the Enquiry Officer and also the punishment imposed by the Disciplinary Authority as well as Appellate Authority is perverse and it is unsustainable in law and therefore, he wants this Tribunal to set aside the punishment and direct the Respondent/Bank to reinstate him in service. While raising this dispute, the Petitioner has not disputed the conduct of domestic enquiry but he has alleged that the findings given by the Enquiry Officer is perverse and unsustainable in law. Therefore, we have to look into the charges one by one and whether the finding is a perverse one.

7. The first charge against the Petitioner is that the Petitioner on 31-1-98 borrowed a sum of Rs. 1,50,000 from Port City Benefit Fund Tuticorin and have issued two cheques on 6-8-98 for Rs. 50,000 and another one on 15-8-98 for Rs. 1,00,000 and when these two cheques were presented for payment by Port City Benefit Fund Ltd., the same were returned unpaid for want of sufficient funds and a notice was issued to the Petitioner that legal action will be taken against him for default of payment of his dues. Thus, it is clear that the Petitioner is in practice of availing of loan

from outsiders and incurring debts to an extent considered by the bank excessive comparing to his known income. For this, the Petitioner alleged that during 1996 he was engaged in religious activities and also he was a convener of mass crusade scheduled for 2nd week of January, 1996. The Petitioner has also applied and obtained permission from the Respondent/Bank to be a convener of the said crusade. On the eve of crusade, there was a communal clash at Tuticorin and in the process many benevolent philanthropic minded houses and men lost their properties and when the crusade was conducted, money did not flow in to meet out the liabilities undertaken by the Petitioner as expected and to keep his word and commitment, he had to go in for loans and during February, March and April, 1998 against five cheques issued by Petitioner in favour of the finance company and out of this commitment, the Petitioner could mobilize funds to clear only Rs. 25,000 and the balance of Rs. 1,10,000 could not be cleared in time. But the Managing Director of the finance company started raiding the house of the Petitioner accompanied by his rowdy gang and by force, he extracted and extort blank cheques or filled up cheques, letters and signatures on blank papers and on stamp papers both from the Petitioner and from his wife and he has obtained the cheques to the total value of Rs. 3.8 lakhs in the above dealings in the account of Mr. Rathinakumar, who is the friend of the Petitioner and the said figure had no relation to truth or reasoning and it was more than usurious. But in the enquiry, the enquiry Officer has come to a conclusion that the Petitioner has admitted the borrowings of money, though he has stated that with undue influence and force the finance company has obtained several blank cheques and also filled up the cheques in that enquiry, the Enquiry Officer has not gone into all these questions and he has come to a conclusion that since he had admitted the borrowings and since the amount was more than Rs. 1.5 lakhs, it is clear that the first charge framed against the Petitioner that being a bank employee the Petitioner availed loan from outsiders and incurring debts to an extent considered by the bank as excessive and therefore, the Enquiry Officer has held that the charge framed against the Petitioner has been proved.

8. Learned counsel for the Petitioner contended that though the Petitioner has admitted that he has borrowed the money from the finance company and the Petitioner has established before the Enquiry Officer that he has borrowed this amount only for crusade to be conducted in Tuticorin and it is also an admitted fact that the Petitioner has obtained the permission of the bank to be a convener for the said crusade and under such circumstances, there is no contra evidence to show that the financier has not obtained the said cheques by force or undue influence and in these circumstances, the finding given by the Enquiry Officer is perverse and without any material evidence.

9. On the other hand, the learned counsel for the Respondent contended that it is not the duty of the Respondent/Bank to look into the contention of the Petitioner as to whether the cheques were issued by force or undue influence but the Petitioner has admitted that he has borrowed the amount from financier. Though the

Petitioner has alleged that permission was obtained from the Respondent/Bank to be convener for the crusade that doesn't mean that Respondent/Bank has permitted him to borrow money from outsiders more than that his known income. Under such circumstances, since the borrowal has been admitted by the Petitioner and since the Respondent/Bank has considered it as excessive, there is no wrong in the findings given by the Enquiry Officer and it cannot be questioned before this Tribunal as perverse.

10. I find much force in the contention of the learned counsel for the Respondent because though the Petitioner has alleged that cheques were obtained by force or undue influence, since he has admitted the borrowal of money to the tune of Rs. 1,35,000 and since the Respondent/Bank considered it as excessive, I find the charge No.1 framed against the Petitioner has been proved and the findings given by the Enquiry Officer cannot be stated as perverse.

11. With regard to second charge, the 2nd charge framed against the Petitioner is that the Petitioner has availed housing loan on 31-4-98 for Rs. 3,00,000/- under the scheme for granting housing loan to staff and additional housing loan to the tune of Rs. 1.25 lakhs and further, he has created a mortgage over the said property purchased by depositing the original sale deed on 19-3-98 in favour of the Respondent/Bank as security for the said loan. While so, after executing the mortgage and availing loan, the Petitioner has sold the property to one Mr. Sundararamalingam on 29-10-98 without getting the permission of the bank which is also contrary to the terms and conditions of term loan agreement. Therefore, the action of the Petitioner is prejudicial to the interest of the bank and the bank is likely to incur loss on account of his action and therefore, the charge has been framed against him.

12. For which, the Petitioner has contended that the Managing Director of Port City Benefit Fund Ltd. namely Mr. Suryamurthy falsely claim a huge sum of Rs. 3,80,000 as balance due towards the settlement of money availed in the name of Mr. Rathinakumar and not satisfied with the unsigned cheques and also signed cheques, he whisked him from his office and took him to sub-registrar's office on 16-10-98 and got a power deed registered authorizing him to convey his property and under sheer threat and by use of force, he has also obtained his signature in the agreement. Only due to constant threat and fear created in the Petitioner, he has signed those documents. The Managing Director of the finance company was fully aware of the fact that the property for which he has obtained power was purchased by the Petitioner on a housing loan availed from his employer namely State Bank of India and he has also known the fact that the Petitioner cannot alienate the property till the mortgage is cleared. But by fraud, coercion and undue influence, he has obtained the said documents. Subsequently, the Petitioner came to know that the said Managing Director with the alleged power has executed a sale deed in favour of one Mr. Sundara Ramalingam in the price shown in sale deed. The Petitioner by his letter dated 10-9-98 informed the Respondent about his involvement as convener and difficulties faced by him. Further, after

coming to know about the fact that Managing Director has created a sham and nominal document in favour of third party, the Petitioner has given a fax message on 14-2-99 about the illegal action and he has also filed a civil suit before the Competent Court and he has also informed the same to the Respondent/Management. But after receiving the fax message, the Respondent/Management issued a memo. on 17-3-99 asking explanation of the Petitioner. Even in his explanation dated 20-4-99, the Petitioner has explained all the circumstances and sought for time to settle the matters. But the Respondent/Management has issued a charge sheet alleging that the Petitioner has sold the property to third party against the terms and conditions of the agreement, which is prejudicial to the interest of the bank and likely to incur loss on account of the Petitioner's action. But, the learned counsel for the Petitioner contended that in the suit filed by the Petitioner, it was declared that the sale made by the alleged power of attorney namely the Managing Director of the finance company in favour of Mr. Sundararamalingam is void and it also declared the sale as void and it was incorporated in the Registration department records and for which he relied on Ex. W6 copy of encumbrance certificate by Registration department dated 25-7-2004.

13. But, on the other hand, learned counsel for the Respondent contended that though the Petitioner alleged that power deed was obtained by coercion, force and undue influence, the bank has nothing to do with all those things and it is clear from the encumbrance certificate that he has given power to Mr. Suryamurthy and the said power agent has sold the property to Sri Sundara Ramalingam with regard to the property mortgaged in favour of the Respondent/Bank, which action is against the terms and conditions of the agreement entered into with the bank and the action of the Petitioner is prejudicial to the interest of the bank and therefore, charge framed against the Petitioner was proved beyond reasonable doubt.

14. Though I find some force in the contention of the learned counsel for the Respondent, in this case, the Petitioner from the beginning has clearly stated that general power was obtained by undue influence and force and on the strength of the said power, the power agent has sold the property to Sri Sundararamalingam and the sale is null and void and he has also filed a civil before the Civil Court and obtained decree for declaration which is proved by him through documents. Under such circumstances, it cannot be said that the sale, alleged to have been made, with regard to the property mortgaged in favour of the bank, by the Petitioner was voluntarily. Further, the competent civil court has clearly declared that the sale alleged to have been taken under sale deed dated 21-10-98 is null and void. Under such circumstances, I find the allegation is not true that the Petitioner has sold the property to third party when the mortgage is subsisting and which action is prejudicial to the interest of the bank.

15. Learned counsel for the Petitioner further relied on the rulings reported in 1998 4 LLN 577 BHAGWAN DASS Vs. INDIAN AIRLINES LTD. AND OTHERS wherein the employee of the Indian Airlines applied to the

management for loan to purchase ready built flat from co-operative group housing society and the said loan was sanctioned and the Petitioner purchased the flat. later on, he sold his flat unauthorisedly without permission from the management and the was charge sheeted thereafter and when the employee challenged the chargesheet by Writ Petition, it was held that '*derelection being subject matter of the charge sheet did not come within the purview of the misconduct as enumerated in Indian Airlines Housing Loan Regulations.*' There is no rule as pointed by the Supreme Court in 1984 2 LLN 200 stating that '*any violation by the employee of rules and regulations would constitute misconduct.*' Therefore, based on the decision of Supreme Court, the High Court has held that charge framed against the Petitioner is not valid. The next decision relied on by the counsel for the Petitioner is 1997 1 LLN 517 UNITED COMMERCIAL BANK AND OTHERS Vs. S.R. PUROHIT wherein the issue of a bank employee misutilising house building advance taken from the bank came up for consideration before the Rajasthan High Court whether the action of the employee is a misconduct, the Rajasthan High Court has held that '*diversion of house building loan advance to personal use may not be one of the misconducts as envisaged in the Bipartite Settlement*' and thus, the Rajasthan High Court set aside the punishment imposed on the employee. Relying on these decisions, learned counsel for the Petitioner contended that there is no specific rule in Bipartite Settlement stating that when the employee utilising the house building advance to some other purpose or property mortgage to the bank was sold to some other person it amount to a misconduct. In this case, though the Respondent/Bank has stated that it is a misconduct, it is clearly established before the domestic enquiry that Civil Court has declared that sale as null and void and under such circumstances, it cannot be said that the petitioner has sold the property mortgaged to the bank to some other person. Under such circumstances, the findings given by the Enquiry Officer is not valid in law.

16. I find much force in the contention of the learned counsel for the Petitioner because though the Respondent/Bank alleged that property mortgaged to the bank by the Petitioner was sold and it was registered, since the said sale was declared as null and void and since it is a void one and under such circumstances, it cannot be said that the petitioner has sold the property mortgaged to the bank. Therefore, this charge framed against the Petitioner has not been proved and the findings given by the Enquiry Officer is not valid in law.

17. The next charge framed against the Petitioner is that the Petitioner has availed an advance of Rs. 9200/- on 4-1-99 meet the expenses on account of his availing leave fare concession. But he has not undertaken the journey for which he has availed the advance from the Respondent/Bank. Thus, he has misutilised the advance sanctioned to him on 4-1-99 for availing leave fare concession and it is an act of gross misconduct and therefore, he is liable to be punished for the same. For this, the Petitioner has alleged that though he has obtained advance from the Respondent/

Bank to avail leave fare concession, unfortunately he has become sick and he was on leave on medical grounds since 18-1-1999 and joined duty only on 31-3-1999. Since he was on medical leave and since he has become sick, he could not undertake the journey as planned and immediately on joining duty i.e. 3-4-1999 he has informed the Respondent/Management and applied for permission to avail LFC from 26-4-1999 and such postponement of LFC will be permitted as has been done at the branch on many occasions. But contrary to the instructions, the permission was not granted to the Petitioner and it was communicated to him at the last moment and the advance amount was also recovered from his salary with interest and therefore, there is no loss caused to the bank.

18. But the learned counsel for the Respondent contended that though the Petitioner alleged that there is no loss caused to the bank, even in the rule itself, it is clearly stated that in such cases, recovery of amount will be made without prejudice to the bank's right to initiate suitable disciplinary proceedings in those cases, where the wilful neglect in submitting the bills in time or wilful intention to misutilise the amounts far in excess of the actual requirements is observed. Under such circumstances, it cannot be said that merely because there is no loss to the Respondent/Bank, action cannot be taken against the Petitioner.

19. But, again the learned counsel for the Petitioner contended that no doubt in rule itself, it is mentioned that disciplinary action can be taken against the erring employee, but only in those cases where the wilful neglect in submitting the bills in time or wilful intention to misutilise the amounts far in excess of the actual requirements is made. In this case, the Petitioner has established before the domestic enquiry that though he has obtained LFC from 1-2-1999 he fell ill and he was on leave on medical grounds from 18-1-1999 to 31-3-1999 and under such circumstances, it cannot be said that the Petitioner was in wilful neglect in submitting the bill or wilful intention to misutilise the amounts far in excess of the actual requirements. Further, with a good intention after joining the duty on 3-4-1999 the Petitioner has applied for permission to available LFC from 26-4-1999 which was refused and the amount was recovered from the Petitioner with interest. Under such circumstances, the charge framed against the Petitioner is not valid and the findings given by the Enquiry Officer is perverse. Learned counsel for the Petitioner further relied on the rulings reported in 1984 (2) LLJ 186 A.L. KALRA Vs. PROJECT AND EQUIPMENT CORPORATION OF INDIA LTD. wherein an employee of the Corporation had taken advance and it was alleged that he never used the advance for the purpose for which it was granted nor refunded it. When it was before the Supreme Court for consideration as to whether the action of the employee constitutes misconduct and whether the action of the Respondent Corporation in removing the employee is justified, the Supreme Court has held that "*Seeking advance and granting the same under relevant rules, is at best a loan transaction. The transaction may itself provide for repayment and the consequence of failure to repay or to abide by the rules and that has been done in that case.*"

Any attempt to go in search of a possible other consequence of breach of contract itself appears to be arbitrary and even motivated." It further held that "*it does not constitute a misconduct if it can be said to be one even if it remains un rebutted. The Enquiry Officer has not said one word how the uncontroverted facts constitute a conduct unbecoming of a public servant or he failed to maintain absolute integrity*" and set aside the punishment imposed by the Corporation. Learned counsel for the Petitioner further relied on the rulings reported in 1997 (2) LLN 1176 S. URUGADHAS VKS. STATE BANK OF INDIA, COIMBATORE wherein an employee of the State Bank of India, obtained payment of Rs. 2728 by way of reimbursement in respect of journeys allegedly performed by him partly by bus and partly by taxi by producing in support of his claim a trip sheet in respect of documents, which trip sheet was reported to be a fabricated one and in domestic enquiry the employee was dismissed from service after enquiry. When the matter came up before the Division Bench of the High Court, it held that "*the punishment of dismissal imposed is not only harsh, excessive but also disproportionate to the charges made against the employee*". He further relied on the rulings reported in 1992 (2) LLN 243 SURYANARAYAN PUJARI Vs. UNION OF INDIA AND OTHERS wherein a Govt. servant while availing advance by way of leave travel concession failed to undertake journey and for that charge, the employee has sent an explanation by Certificate of Posting stating that he could not undertake the journey and that amount might be recovered from his salary and a domestic enquiry was conducted against the said employee and punishment was imposed on him. When it was considered by the Division Bench of Orissa High Court it held that "*the employee by his letter dated 18-6-1981 has stated that that he could not undertake the journey and the amount might be recovered from his salary. The letter was sent under certificate of posting. The advance was granted to him on 2-5-1981 and the information was given within one and half months. he filed several documents in reply to the aforesaid charge before the enquiry. The Enquiry Officer has nothing to say regarding this document except that the plea was a mere afterthought, since he did not produce the document before the CBI inspector who conducted the preliminary enquiry prior to the initiation of disciplinary proceedings*" and the Division Bench has held that "*there was no ground for initiation of disciplinary proceedings as breach of rules did not constitute misconduct.*"

20. Learned Counsel for the Petitioner further contended that even though for argument sake without conceding that the charges framed against the Petitioner have been proved, after the introduction of Section 11A of the Industrial Disputes Act, it is open to the Labour Court/Tribunal in the course of adjudication proceedings, if it is satisfied with the order of discharge or dismissal was not satisfied, to set aside the order of dismissal or discharge and direct reinstatement of workman on such terms and conditions. The said provision enables the Tribunal to give other relief including the award of any lesser punishment

in lieu of discharge or dismissal depending upon the circumstances of the case. He relied on the rulings reported in 1998 (4) LLN wherein the Madras High Court in the case of MANAGEMENT OF ESSORPE MILLS PVT. LTD. Vs. PRESIDING OFFICER, LABOUR COURT, COIMBATORE held that "the labour court after considering the nature of the proved charges and the unblemished service for a period of 19 years though that lesser punishment would be sufficient accordingly modified the punishment of dismissal into reinstatement with fifty per cent back wages, which is valid in law." He relied on these rulings and argued that in this case charge No. 2 and 3 framed against the Petitioner have not been proved even assuming without conceding that the first charge has been proved, the Petitioner has served for 22 years with unblemished record of service and without considering the said services in the domestic enquiry, he was removed from service and therefore, this Tribunal has got power to modify the punishment of removal. Further relied on the rulings reported in 1989 (1) LLN 303 wherein the Supreme Court has held that under Section 11A of the Industrial Disputes Act, "the Tribunal/labour Court has got wide powers to interfere with the order of discharge or dismissal of workman and to direct the setting aside of the discharge of dismissal and order reinstatement of workman on such terms and conditions as it may think fit, including substitution of any lesser punishment for discharge or dismissal as the circumstances of the case required."

21. I find much force in the contention of the learned counsel for the Petitioner because in this case, though three charges have been framed against the Petitioner, only one charge has been proved that too a minor misconduct. The second and third charges framed against the Petitioner are not valid and the findings given are also not valid in law. Under such circumstances, I find after considering the nature of the proved charges, lesser punishment would be sufficient and accordingly, I modify the punishment of removal from service into reinstatement with fifty per cent back wages. Further in this case, the Petitioner himself has admitted that after removal he was engaged in breaching and he was earning something and therefore, I consider that fifty per cent of back wages will be fair and just. Therefore, I find this point in favour of the Petitioner.

Point No. 2:—

22. In view of my finding that the action of the Respondent/Management in terminating the services of the Petitioner is not justified, I direct the Respondent/Management to reinstate the Petitioner in service with continuity of service with fifty per cent of back wages with all other attendant benefits but without any costs.

23. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 16th June, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party/Petitioner : WW1 Sri P. James
Karunakaran

For the II Party/Management : None

Documents Marked:—

For the I Party/Petitioner :

Ex. No.	Date	Description
W1	22-3-99	Xerox copy of the chargesheet issued to Petitioner
W2	Nil	Passbook issued by Port City Benefit Fund Ltd. to Mrs. Rathinakumar
W3	16-2-99	Xerox copy of the police complaint
W4	Nil	Xerox copy of the DEX 22
W5	30-12-200	Xerox copy of the letter submitted by Petitioner to Enquiry Officer
W6	27-5-04	Xerox copy of the encumbrance certificate
W7	8-9-98	Xerox copy of the notice sent by advocate
W8	16-10-98	Xerox copy of the agreement
W9	14-12-99	Xerox copy of the fax message sent by Petitioner
W10	3-4-99	Xerox copy of the letter submitted by Petitioner to Respondent/Bank
W11	23-4-99	Xerox copy of the letter of Respondent/Bank to Petitioner regarding LFC
W12	29-4-99	Xerox copy of the letter from Respondent/Bank to Petitioner

For the II Party/Management :—

Ex. No.	Date	Description
M1	11-1-200	Xerox copy of the enquiry proceedings
M2	19-11-98	Xerox copy of the chargesheet
M3	21-4-99	Xerox copy of the reply given by Petitioner
M4	5-6-99	Xerox copy of the chargesheet issued to Petitioner
M5	12-2-01	Xerox copy of the enquiry report
M6	26-2-01	Xerox copy of the letter of Respondent/Bank forwarding Enquiry report to Petitioner
M7	11-4-01	Xerox copy of the reply to enquiry report
M8	23-7-01	Xerox copy of the order proposing removal from Service of the Petitioner
M9	8-8-01	Xerox copy of the proceedings of personal hearing
M10	8-8-01	Xerox copy of the letter from Petitioner
M11	27-9-01	Xerox copy of the final order of punishment
M12	2-12-01	Xerox copy of the appeal preferred by Petitioner
M13	7-1-02	Xerox copy of the order of Appellate Authority

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4222.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे के प्रबंधन के संबंध निोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, अजमेर के पंचाट (संदर्भ संख्या आई डी- 09/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-41012/178/98-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4222.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 09/99) of the Industrial Tribunal/Labour Court, Ajmer, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway and their workmen, which was received by the Central Government on 17-10-2005.

[No. L-41012/178/98-IR (B.1)]

AJAY KUMAR, Desk Officer

अनुबन्ध

न्यायालय श्रम एवं औद्योगिक न्यायाधिकरण, अजमेर
(राज.)

पीठासीन अधिकारी : श्री जी. एस. शेखावत, आरएचजेएस

प्रकरण संख्या सीआईटीआर-09/1999

[रेफरेंस नं. एल-41012/178/98-आईआर (बी-1) दिनांक 10-5-99]

1- स्व. देवी शंकर सुपुत्र श्री रामकिशन जाति धोबी भू. पू. खल्लासी पश्चिम रेलवे अजमेर मंडल अजमेर एवं निवासी 21/7, धोबी कहार मोहल्ला, अजमेर मृतक जरिये उसके वारिसान् एवं कानूनी प्रतिनिधि :-

1/1 श्रीमति शांतिदेवी धर्मपत्नी श्री रामकिशन (माता),

1/2 श्रीमति शकुंतला बेबा स्व. श्री देवीशंकर (पत्नी),

1/3 कु. खुर्रू सुपुत्री स्व. श्री देवीशंकर (पुत्री),

1/4 कु. प्रियंका सुपुत्री स्व. श्री देवीशंकर (पुत्री नायालिक जरिये अपनी प्राकृतिक माता के)

क्र.स. 1/1 से 1/4 तक समस्त निवासीगण 22/20 नया 21/7 पुराना धोबी कहार मोहल्ला, अजमेर

...अप्रार्थीगण

बनाम

1. मंडल रेल प्रबंधक, पश्चिम रेलवे अजमेर मंडल, मंडल कार्यालय, पश्चिम रेलवे, अजमेर

2. भारत संघ बजरिये उसके महाप्रबंधक, पश्चिम रेलवे, चर्चगेट, मुंबई।

...अप्रार्थीगण

उपस्थित : श्री पी.डी. खन्ना, विद्वान अधिवक्ता, प्रार्थीगण।

: श्री के. सी. जैन, विद्वान अधिवक्ता, अप्रार्थीगण।

दिनांक : 28-9-2005

अवार्ड

केन्द्र सरकार द्वारा प्रेषित विवाद निम्न प्रकार है:-

"Whether the action of the Division of Railway Manager Western Railway Ajmer in terminating the services of Shri Devi Shankar Ex. Substitute Khalashi w.e.f. 31-7-82 is legal and justified? If not to what relief workman is entitle to?"

नोटिस के उपरांत उभयपक्ष उपस्थित आये। प्रार्थी ने क्लेम का विवरण और प्रतिपक्षी ने उत्तर प्रस्तुत किया। तदुपरांत प्रार्थी देवीशंकर की मृत्यु होने पर उसके विधिक प्रतिनिधि अभिलेख पर लिये। मृत्यु से पूर्व प्रस्तुत क्लेम के विवरण में प्रार्थी ने अंकित किया है कि प्रार्थी की नियुक्ति प्रतिपक्षी के अधीन अजमेर मंडल के खरवा रेलवे स्टेशन में पानी वाले के पद पर दि. 8-5-80 को हुई थी। प्रार्थी को प्रारंभ में पांच रुपये प्रतिदिन की दर से वेतन मिलता था। उसके पश्चात् 300 रु. वेतन मिलने लगा। प्रार्थी ने खरवा मेन लाइन रेलवे स्टेशन पर दिनांक 8-5-80 से 30-9-81 तक लगातार 216 दिन नियमित रूप से ईमानदारी लगाना, मेहनत से अपनी ड्यूटी की है। प्रतिपक्षी ने अपने पत्र सं. डब्ल्यू.ओ एल टी/815/1 दि. 26-10-81 के द्वारा एक्जी कर्मचारियों की वरिष्ठता सूची निकाली जिसमें प्रार्थी का नाम क्र.सं. 3 पर वर्णित है। उक्त प्रकाशित सूची में वर्णित तेईस कर्मचारियों को डॉक्टरी परीक्षा पास करने के निर्देश दिये तथा स्क्रीनिंग के आदेश दिये, जिसकी पालना में प्रार्थी ने दि. 13-11-81 को डॉक्टरी परीक्षा पास की जिसका मेडिकल प्रमाण पत्र सं. 90955 दि. 12/13-11-81 जारी किया गया। उसके पश्चात् प्रार्थी को चंडावल रेलवे स्टेशन पर एक्जी कर्मचारी के रूप में कार्य किया। उसके पश्चात् प्रार्थी को पीपलाज बगड़ी नगर रेलवे स्टेशन पर लगाया जहां नियमित रूप से कार्य किया। प्रतिपक्षी ने अपने कार्यालय आदेश 30-11-88 में रेलवे बोर्ड के आदेश दि. 25-1-85 से पूर्व पानी वालों को जिन्होंने 120 दिन से अधिक दिन तक कार्य पूर्ण कर लिया, उन्हें अस्थाई स्केल ग्रेड प्रदान की जाने के आदेश पारित किये परन्तु फिर भी प्रतिपक्षी ने प्रार्थी की सेवायें 31-7-82 को समाप्त कर दी। प्रार्थी ने प्रतिपक्षी को 16-10-89, 21-4-92, 9-9-92, 19-4-93 को सेवा समाप्ति के विरुद्ध पत्र लिखे किंतु कोई उत्तर नहीं दिया। प्रार्थी ने वर्ष 1994 में याचिका सं. ओए 9/94 केन्द्रीय प्रशासनिक न्यायाधिकरण में प्रस्तुत की किंतु क्षेत्राधिकार के अभाव में 12-11-96 को वापस ले ली। तदुपरांत वर्ष 1997 में यह विवाद उठाया। प्रार्थी ने 31-7-82 के बाद उसे कार्य पर नहीं लगाने के कारण कार्य नहीं किया जिसमें प्रार्थी

की कोई त्रुटि नहीं है। प्रतिपक्षी ने धारा 25जी, एच औद्योगिक विवाद अधि. का उल्लंघन किया है। अनुच्छेद 14 एवं 16 भारतीय संविधान का भी उल्लंघन है। अंत में सेवा समाप्ति को अवैध घोषित कर चतुर्थ श्रेणी कर्मचारी के पद पर गत वेतन भत्तों सहित पुनर्स्थापित करने की प्रार्थना की है।

प्रतिपक्षी ने उत्तर में अंकित किया है कि प्रार्थी ने दैनिक वेतन के आधार पर आकस्मिक श्रमिक के रूप में समय-समय पर कार्य किया और बाद में स्वतः ही कार्य पर आना बंद कर दिया। यह गलत है कि प्रतिपक्षी ने 31-7-82 से प्रार्थी की सेवा समाप्त कर दी हो बल्कि प्रार्थी ने स्वेच्छा से कार्य पर आना बंद कर दिया। प्रार्थी के कोई प्रतिवेदन प्रतिपक्षी को प्राप्त नहीं हुए। प्रार्थी का प्रार्थना पत्र 9-9-92 प्रतिपक्षी को प्राप्त हुआ जिसमें प्रत्युत्तर प्रार्थी को पत्र दि. 22-2-93 द्वारा दिया गया। यह गलत है कि प्रार्थी ने लगातार 120 दिन प्रति पक्षी के अधीन कार्य किया हो। ऐसी अवस्था में अस्थाई हैसियत प्रदान किये जाने का प्रश्न ही उत्पन्न नहीं होता। पंद्रह वर्ष पश्चात् श्रम आयुक्त के समक्ष प्रार्थना पत्र प्रस्तुत किया गया है, जो विलंबित होने से कालतिरोहित है। अंत में क्लेम निरस्त करने की प्रार्थना की है।

प्रार्थी देवीशंकर की दि. 14-6-2002 को मृत्यु होने के कारण उसके विधिक प्रतिनिधिगण बनाये गये।

प्रार्थी के विधिक प्रतिनिधि उसकी पत्नी श्रीमति शकुंतला देवी ने शपथ पत्र प्रस्तुत कर प्रतिपरीक्षण कराया है। प्रलेखीय साक्ष्य में प्रदर्श डब. 1 से 17 प्रलेखों की प्रतियां प्रदर्शित करवाकर प्रस्तुत की है। प्रतिपक्षी की ओर से सुजानसिंह, वरिष्ठ लिपिक ने शपथ पत्र प्रस्तुत कर प्रतिपरीक्षण करवाया है। प्रलेखीय साक्ष्य में कोई प्रलेख प्रस्तुत नहीं किया।

उभयपक्ष का श्रवण किया, पत्रावली का अवलोकन किया। प्रार्थी की ओर से निम्न दृष्टांत प्रस्तुत किये गये :—

1. 2005(3) आरएलडब्ल्यू 1926,
2. 2004(2) आरएलआर 657,
3. 1988 एलआईसी (देहली) 126,
4. 1993 एआईआर एस.सी. 188,
5. 1989(6) एसएलआर कैट कलकत्ता 301,
6. 2003(3) आरएलआर 288,
7. 2003(3) आरएलआर 548,
8. 1994(1) डब्ल्यू एल एन 235,
9. 1994(1) आरएलआर 465,
10. 2004 एसएलआर एससी 855,
11. 2005(1) एसएलआर एस.सी. 563,
12. 2003 एआईआर एस.सी. 3553,
13. 1999(1) आरएलआर 250,

14. 2004 एल आई सी एन ओ सी (2) देहली,
15. 2005(1) एस.सी. एसएलआर 461,
16. 2001(1) डब्ल्यू एल एन 385,
17. 2005 एलआईसी (केरल) 1808,
18. 1999 (2) आरएलआर 617

उक्त दृष्टांतों का ससम्मान अध्ययन किया।

प्रार्थी के अनुसार प्रार्थी देवीशंकर ने दि. 8-5-80 से 30-9-81 तक निरंतर 216 दिन तक, पानी वाले के पद पर कर्मचारियों की वरिष्ठता सूची में क्रम सं. 3 पर उल्लेख होने से डॉक्टरी परीक्षा पास कर मेडिकल प्रमाण पत्र प्राप्त कर 2-6-82 से 31-7-82 तक साठ दिन तक निरंतर कार्य किया है। इस प्रकार यह स्पष्ट है कि प्रार्थी ने सेवामुक्ति दि. 31-7-82 से पूर्व गत वर्ष में निरंतर 240 दिन कार्य नहीं किया किंतु उसने 8-5-80 से 30-9-81 तक 216 दिन और 2-6-82 से 31-7-82 तक 60 दिन एक्सी कर्मचारी के रूप में कार्य किया है। इस संबंध में प्रतिपक्षी की ओर से कोई प्रलेख प्रस्तुत नहीं किये गये, ऐसी स्थिति में प्रार्थी के कथन व प्रार्थियों द्वारा प्रस्तुत प्रलेखों को इस बिंदु पर अविश्वसनीय नहीं माना जा सकता। प्रदर्श डब. 1 के अनुसार प्रार्थी ने 216 दिन वॉटरमैन के पद पर दैनिक वेतन भोगी के रूप में कार्य किया है जिसका पूर्ण विवरण अंकित है। प्रदर्श-2 पत्र के अनुसार प्रार्थी को एक्सी के रूप में नियुक्ति दी गयी जिसमें प्रार्थी का नाम क्रमांक 3 पर अंकित है। वरिष्ठता के संबंध में पत्र प्रदर्श डब. 3 के साथ सूची भी प्रकाशित की गयी। प्रदर्श डब. 4 में प्रमाण पत्र चिकित्सा विभाग द्वारा जारी किया गया है। प्रदर्श डब. 5 के अनुसार प्रार्थी ने साठ दिन तक एक्सी के रूप में चंडावल स्टेशन पर कार्य किया है। प्रदर्श डब. 7, 8, 9 पत्र प्रार्थी ने कार्य पर लिये जाने हेतु लिखे हैं। प्रदर्श डब. 12 प्रतिपक्षी की ओर से सहायक श्रम आयुक्त को प्रस्तुत प्रतिवेदन पत्र पर टिप्पणी है। प्रार्थियों के कथन एवं प्रार्थियों की ओर से उक्त प्रलेखों के आधार पर यह प्रमाणित है कि प्रार्थी ने उक्त प्रकार से 216 और साठ दिन उक्त अवधि में कार्य किया है। प्रतिपक्षी की आपत्ति केवल यह है कि वह स्वयं कार्य छोड़कर चला गया किंतु इस संबंध में प्रतिपक्षी से कोई प्रलेखीय साक्ष्य प्रस्तुत नहीं की। उस समय कार्यरत अन्य कर्मचारी के भी कथन नहीं करवाये। अतः प्रतिपक्षी की यह प्रतिक्षा विश्वसनीय नहीं है। जहां तक विलंब का संबंध है, प्रार्थी सन् 1989 से पुनः सेवा में आने हेतु प्रयासरत है। उसी केन्द्रीय प्रशासनिक अधिकरण में सन् 1994 में याचिका भी प्रस्तुत कर दी थी। प्रार्थी एक निरक्षर, ग्रामीण परिवेश का व्यक्ति है जो विधिक स्थिति से अनभिज्ञ है। मेरे विनम्र मत में विलंब घातक नहीं है।

विवाद इस बिंदु पर है कि प्रार्थी ने 120 दिन निरंतर प्रतिपक्षी के अधीन दैनिक वेतन भोगी श्रमिक के रूप में पानी वाले के पद पर कार्य किया है जिससे क्या वह अर्द्ध स्थाई होने का अधिकारी था इस संबंध में पश्चिम रेलवे मंडल रेल प्रबंधक, अजमेर का पत्र दि. 30-11-88 महत्वपूर्ण है, जो निम्न प्रकार है :—

“रेलवे बोर्ड के पत्र सं. ई/(दन. बी)/11/83/सीएल/117 दि. 25-1-85 के अनुसार प्रौषकालीन पानीवालों को 120 दिन का

कार्य पूर्ण कर लेने के बाद अस्थाई हैसियत याचिका कि स्केल रेट प्रदान की जाती है। अतः स्केल रेट प्रदान ग्रीष्मकालीन पानी वालों को पास की सुविधा उसी प्रदाय देय है जिस प्रकार अस्थाई हैसियत प्रदान एवजी कर्मचारियों को दी जावेगी।" इस प्रकार उक्त पत्र में रेलवे बोर्ड के पत्र दि. 25-1-85 का उल्लेख किया है जिसके अनुसार ग्रीष्मकालीन पानी वालों को 120 दिन का कार्य पूर्ण कर लेने के बाद अस्थाई हैसियत याचिका कि स्केल रेट प्रदान की गयी है। इस संबंध में प्रतिपक्षी ने प्रार्थी को कोई सूचना नहीं दी है। माननीय उच्चतम न्यायालय ने एआईआर 93 एल.सी. 188 मूनियन ऑफ इंडिया/बसंतलाल एवं अन्य में यह अवधारित किया है कि 120 दिन तक निरंतर सेवा पूर्ण कर लेने वाले कर्मचारी अस्थाई स्टेटस प्राप्त करने के अधिकारी हो जाते हैं। उन्हें यह अधिकार जी.एम. नार्दन रेलवे के पत्र दि. 29-12-78 से प्राप्त होता है। उक्त दृष्टांत प्रस्तुत प्रकरण में भली-भांति लागू होता है। उक्त दृष्टांत में माननीय उच्चतम न्यायालय ने न्यायाधिकरण द्वारा पारित निर्णय की पुष्टि की है। समस्त तथ्यों एवं परिस्थितियों को मद्देनजर रखते हुए मैं इस निष्कर्ष पर पहुंचता हूँ कि प्रार्थी ने भी 120 दिन तक निरंतर पानी वाले के पद पर कार्य करने के कारण वह अस्थाई स्टेटस प्राप्त करने का अधिकारी था किंतु प्रतिपक्षी ने इस संबंध में उसे कोई सूचना नहीं दी और कोई आदेश पारित नहीं किया। प्रार्थी द्वारा स्वतः ही कार्य छोड़ने की प्रतिरक्षा प्रतिपक्षी के प्रलेखों के अभाव में विश्वसनीय नहीं है। प्रार्थी एक श्रमिक है, जिसकी मृत्यु हो चुकी है। प्रार्थी के परिवार में उसकी माता, पत्नी और दो पुत्रियां ही हैं, ऐसी स्थिति में समस्त तथ्यों एवं परिस्थितियों को मद्देनजर रखते हुए प्रार्थीगण को बीस हजार रुपये क्षतिपूर्ति की राशि दिलाया जाना उचित है।

आदेश

फलतः प्रस्तुत विवाद का उत्तर इस प्रकार से दिया जाता है कि मंडल रेल प्रबंधक, वेस्टर्न रेलवे, अजमेर द्वारा प्रार्थी देवीशंकर (मृतक) एक्स सबस्टीट्यूट, खलासी की दि. 31-7-82 सेवा समाप्त किया जाना अवैध एवं अनुचित था। चूंकि प्रार्थी देवीशंकर की अब मृत्यु हो चुकी है, अतः समस्त तथ्यों एवं परिस्थितियों के आधार पर उसके विधिक प्रतिनिधिगण को प्रतिपक्षी से बीस हजार रुपये मात्र की क्षतिपूर्ति की राशि दिलायी जाती है। प्रतिपक्षी उक्त आदेश की पालना तीन माह में करे।

जी.एस. शेखावत, न्यायाधीश

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4223.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण

सं. I, नई दिल्ली के पंचाट (संदर्भ संख्या आई डी 76/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/101/2001-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 76/2001) of the Central Government Industrial Tribunal/Labour Court I, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 17-10-2005.

[No. L-12012/101/2001-IR (B.I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL : PRESIDING OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. NO. 76/2001

In the matter of dispute between :

Shri Manohar Singh

... Workman

S/o Shri Maha Ram Singh

R/o H. No. H-305, Sewa Nagar,

New Delhi-110003

Versus

1. The Dy. General Manager,
State Bank of India,
Delhi Zonal Office No. 1,
Parliament Street,
New Delhi-110001.

2. The Assistant General Manager, .. Management
State Bank of India,
Region-III,
Delhi Zonal Office No. 1,
Parliament Street,
New Delhi-110001.

APPEARANCES:

None for the Workman.

Miss. Kitoo Bajaj A/R for management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/101/2001/IR(B-I) dated 25-9-2001 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of State Bank of India, C.G.O. Complex Branch, New Delhi in stopping Shri Manohar Singh verbally w.e.f. 15-7-99 from the services without any notice, retrenchment compensation is justified? If not, what relief he is entitled?”

2. After receipt of the reference the workman filed statement of claim, management filed written statement and then rejoinder was filed by the workman. After admission denial of documents issues were framed in this case on 17-3-2005 and case was posted for evidence of the workman on 9-6-2005 by way of affidavit. Thereafter he failed to appear on subsequent hearings on 9th of June and 16th of August 2005 and today also on 6-10-2005. It appears that the workman is not interested in the prosecution of this case any further.

Hence No Dispute Award is accordingly passed.

File be consigned to record room.

SANT SINGH BAL, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4224.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई सी आई सी आई बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई डी- 342/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/27/2004-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4224.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No.342/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ICICI Bank Ltd. and their workmen, Which was received by the Central Government on 17-10-2005.

[No. L-12012/27/2004-IR (B.I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 2nd June, 2005

PRESENT

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 342/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of ICICI Bank Ltd., and their workmen)

BETWEEN

Sri P.C. Kumar : I Party/Petitioner

AND

The Senior Vice- : II Party/Management
President, HRD,
ICICI Bank Ltd.,
Chennai

APPEARANCE:

For the Petitioner : Mr. Fredrick Castro,
Advocate

For the Management : M/s. Ramasubramaniam
& Associates, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/27/2004-IR(B-I) dated 18-4-2004 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is:

“Whether the action of the management of ICICI Bank Ltd. in dismissing the services of Shri P.C. Kumar, w.e.f. 16-01-2003 is justified? If not, to what relief is he entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 342/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered service as a Clerk in Bank of Madura on 27-9-82 and in the year 2000, the said bank was taken over by the Respondent/Bank and he continued as clerk under the Respondent/Bank. While so, to his great surprise he was issued with charge sheet dated 26-2-02 and after conducting a farce of enquiry, the Respondent/Bank terminated him from service on 16-1-03. The Respondent/Bank after taking over Bank of Maharashtra along with its employees was bent upon doing away with the said employees and started harassing immediately and threatening them. The allegations in the charge sheet are that (i) the Petitioner had failed to create an equitable mortgage for availing a housing loan of Rs. 1,50,000/-. No doubt the Petitioner has obtained a loan while working under his previous employer

namely Bank of Madura. The Petitioner has created equitable mortgage as per existing rules and the same was accepted by the erstwhile employer and the loan amount was released but without verifying the records, this charge has been framed against the Petitioner. Secondly, the Respondent alleged negligence in duty as cashier by the Petitioner in non-accounting of cash remitted by Customer Mr. P.A. Shanmugam. But, it is admitted case of the Respondent that the branch head Mrs. Swapna Rani also collected cash on 1-8-01 and without producing any document, it cannot be said that there was negligence on the part of the Petitioner. It is not proved whether the Petitioner has collected the cash or Mrs. Swapna Rani has collected the cash and no document was produced for establishing this fact and none of the management witness has deposed so in the enquiry and none of the witness has deposed that the Petitioner is responsible for the shortage. Similarly the allegation of shortage of Rs. 1,000/- for the remittance made by one Mr. Abdul Azeez also it was not proved with relevant documents. With regard to allegation of unauthorised absence, the Petitioner has clearly stated that there was no unauthorised absence. The absence is only authorised and supported by medical documents and therefore, the charges are vague, ambiguous and lacking of precision. They do not fall within the enumerated misconducts in the standing orders and the charge sheet has been issued by a person who has no authority or competence to issue the same and the enquiry was also ordered by a person without any competence and therefore, the enquiry is a farce one and it was conducted in violation of principles of natural justice. The Enquiry Officer has acted in a biased and prejudiced manner. The Enquiry Officer himself has questioned the Petitioner with a view to pin him to the charges. The findings of the Enquiry Officer is totally perverse and it is contrary to the facts on record both oral and documentary. The punishing authority had also without applying his mind has blindly followed the findings of the Enquiry Officer. The past record of the Petitioner has not been considered by the punishing authority, hence the order of punishment is vitiated. Negligence and misappropriation cannot be attributed to a single act since negligence is an unintentional act and misappropriation is an intentional act. Any how, this Tribunal has got powers to interfere with the findings of the Enquiry Officer under section 11A of the I.D. Act. Hence, for all these reasons, the Petitioner prays this Tribunal to pass an award directing the Respondent/Bank to reinstate him in service with back wages, continuity of service and all other attendant benefits.

4. As against this, the Respondent/Bank in its Counter Statement contended that no doubt the Petitioner joined the services of Bank of Maharashtra on 27-9-82 as clerk and on account of merger of erstwhile Bank of Madura with the Respondent/Bank in the year March, 2001, the Petitioner along with other employees were absorbed as employees of the Respondent/Bank. In the course of his employment, the Petitioner has committed grave misconducts for which charge sheet dated 26-2-2002 was served on him and explanation was called for from him. Though the Petitioner has submitted his explanation since it was not satisfactory, a domestic enquiry was ordered by the Disciplinary Authority. The allegations in the charge sheet are that he failed to create equitable mortgage of title deed for having availed housing loan under staff loan as per the terms of sanction. Further, he availed a separate housing loan from LIC Housing Finance Co. Loan by depositing the original title deed of the related property offered as security to the bank; (ii) negligence in performing his duties as cashier in non-accounting of the amount remitted by the customer and misappropriating an amount of Rs. 2000/- resulting into monetary loss to the bank apart from loss of reputation; and (iii) unauthorised absence from duty in spite of fitness certificate issued by Medical Board. The domestic enquiry was conducted in a fair and proper manner in accordance with the principles of natural justice giving reasonable opportunity to the Petitioner to defend his case. Despite the Respondent/Management produced documents, the Petitioner did not submit any documentary evidence or let in any oral evidence to defend his case. On completion of the enquiry the Enquiry Officer submitted his report on 26-12-2002 to the Disciplinary Authority, who after going through all the records that have come under enquiry proceedings, passed the order of dismissal dated 16-1-2003. The misconduct committed by the Petitioner was considered as grave in nature, especially when an employee of the bank, order of dismissal was passed strictly in terms of the provisions of ICICI bank employees Code of conduct. Even the appeal preferred by the Petitioner was rightly rejected by the Appellate Authority after careful consideration. It is established that after availing loan from the Respondent/Bank, the Petitioner submitted the original title deed relating to the property with LIC Housing Finance Ltd. and availed another loan for Rs. 6,90,000/- for the same purpose. Instead of creating mortgage with the bank, the Petitioner with an ulterior motive availed another loan with LIC Housing Finance Ltd. for the same purpose. It is impossible to create two equitable mortgages with original title deed of same property. It is further pertinent to note that the wife of the Petitioner addressed to Vide President, HRD of the Respondent/Bank stating that the Petitioner had suppressed the fact about the loan pending with the Respondent/Bank and had obtained a guarantee from her for availing the loan from LIC Housing Finance Ltd. has come in the enquiry record. Thus, it is clearly proved that

the Petitioner has suppressed the vital fact, it is false to allege that the relevant documents were not marked before the enquiry. All the relevant documents were marked in the enquiry. In this duties as cashier in non-accounting the cash remitted by the customer was proved beyond doubts. One Mr. Abdul Azeez has remitted Rs. 3370/- through voucher dated 9-7-2001 to his credit card payments and in the said voucher he had given detailed denominations but wrongly totalled as Rs. 1,370/-. The said voucher had been marked as exhibit. The Petitioner had received the cash and after verifying the denomination taking advantage of wrong totalling, the Petitioner has accounted only Rs. 1370/- in system and misappropriated the balance amount of Rs. 2000/- and the same was proved in the enquiry. The medical board certified the Petitioner as fit to join duty on 12-12-2001 and despite being found fit by Medical Board, the Petitioner has not reported for duty and remained unauthorisedly absent for duty from 12-12-2001 to 14-2-2002. Since it is against the code of conduct of the Respondent/Bank, action was taken against him. It is false to allege that the incompetent person has issued the charge sheet and incompetent person has ordered for enquiry. Since the charges were proved against him, which includes misappropriation of money, which are grave in nature, and since the Respondent/Bank is dealing with the transactions relating to public money and in the interest of public, the service of the Petitioner whose integrity was under cloud was dismissed. This is a clear case where the Petitioner's action warrants severe action due to doubtful integrity of having suppressed vital information with ulterior motive. It is a clear case where the Petitioner with full application of mind availed another loan from another organisation for the same purpose showing the same document, which made his integrity doubtful. This Respondent is engaged in banking service which involves the public money and as the Respondent/Bank had every reason to lose confidence on the Petitioner as the Petitioner has misappropriated the public money, therefore, the punishment imposed by the Respondent/Bank is appropriate and shall not call for any interference of this Tribunal. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my determination are —

- (i) "Whether the action of the Respondent/Bank in dismissing the services of the Petitioner w.e.f. 16-1-2003 is justified ?
- (ii) To what relief the Petitioner is entitled ?"

Point No. 1 :

6. The learned counsel for the Petitioner has stated that the Petitioner has not challenged the fairness of the enquiry in this case and therefore, the Petitioner wants relief only under section 11A of Industrial Disputes Act, and questioning the perversity of the Enquiry Officer, unfair

labour practice, prejudice and mala fide discrimination and disproportioning of punishment. We will see whether the Petitioner has established his contention with regard to these allegations.

7. On the side of the Petitioner, the Petitioner was examined as WW1 and he has not marked any document. On the side of the Respondent one Mr. Muthukrishnan namely Chief Manager of Respondent/Bank was examined as MW1 and on the side of the Respondent Ex. M1 to M51 were marked namely enquiry proceedings. Three charges were framed against the Petitioner namely the Petitioner failed to create equitable mortgage of title deed for having availed housing loan under staff loan as per the terms of sanction. Further, he availed a separate housing loan from LIC Housing Finance Co. loan by depositing the original title deed of the related property offered as security to the bank and this amounts to availing loan from two sources against the same title deed; secondly, negligence in performing his duties as cashier in non-accounting of the amount remitted by the customer and misappropriating an amount of Rs. 2000/- resulting into monetary loss to the bank apart from loss of reputation; and thirdly, he was unauthorisedly absent from duty in spite of fitness certificate issued by Medical Board.

8. As against this, the Petitioner contended that no doubt he has created equitable mortgage as per the existing rules and the same was accepted by erstwhile employer namely Bank of Madura, but the Respondent/Management has taken over the said bank namely Bank of Madura and it was not aware of the factual position since the Respondent/Bank was nowhere in the picture at the time of creation of equitable mortgage. Further, once the document has been deposited with the erstwhile employer, it cannot be taken back and only if the Petitioner is granted permission to take back the documents, he can get back the documents. In this case, the case of the Respondent is not that the Petitioner has stolen the document deposited with the erstwhile employer. Therefore, it is clear that the document has been taken back only after following the due process of law for which the Petitioner cannot be punished. Further, after creating equitable mortgage as directed by the erstwhile employer, in order to avail of LIC loan, the Petitioner has requested the Bank of Madura to release his property document and since he was an employee of the bank, document relating to his property was released and therefore, the Petitioner cannot be blamed for creating equitable mortgage with LIC housing loan. Further, the premium towards the loan amount was automatically deducted every month from his salary, but without knowing all these things, the Respondent/Bank has made it appear as if, I have failed to deliver the original title deeds back to the Respondent/Bank and therefore, he has not done anything as alleged by the Respondent/Bank and therefore, the findings of the Enquiry Officer with regard to first charge is without any basis and he has

prejudiced against the Petitioner and has given a perverse findings that the charge has been proved. With regard to the allegation of negligence and misappropriation of Rs. 2000/-, the Petitioner alleged that the negligence and misappropriation cannot be attributed to a single act, since the negligence is an unintentional act and misappropriation is an intentional act and a person cannot be negligent and misappropriate money and on 1-8-2001 though he worked in cash department since cash transactions on that day was very heavy. Mrs. Swapna Rani, Head of the branch was also helping the Petitioner and in the enquiry, the Respondent/Management has not proved as to who was negligent on that day and all the documents have not been produced before the Enquiry Officer and under such circumstances, it was not stated from what evidence the Enquiry Officer has come to the conclusion that the charge has been proved against the Petitioner. With regard to third allegation that the Petitioner was in unauthorised absence, the absence was not unauthorised but thrust upon the Petitioner by the Respondent/Management. The Petitioner was not allowed to join duty after his medical leave and he was told that unless the Petitioner repay the entire loan amount and gives a letter of explanation in writing as dictated by the Respondent/Bank, he will not be provided with any employment and the notes made by the Respondent/Bank in the Petitioner's letter dated 6-2-2002 will prove the same. So the Petitioner has paid the entire amount and submitted a letter dated 6-2-2002 as dictated by the Vice President HRD Mr. Manohar and only after that he was allowed to join duty and therefore, it cannot be said that he was in unauthorised absence during this period from December, 2001 to 14-2-2002.

9. As against this, learned counsel for the Respondent contended that as per the terms of sanction letter dated 13-10-95, it is the duty of the Petitioner to deposit original title deed and create equitable mortgage with the Respondent/Bank, which the Petitioner has admittedly failed to do so and the same was proved in the enquiry. Further, after availing the loan from the Respondent/Bank, the Petitioner submitted the original title deed relating to the property with the LIC housing Finance Ltd. and availed another loan for Rs. 6,90,000/- for the same purpose. It was proved in the enquiry that instead of creating mortgage with the Respondent/Bank, the Petitioner with an ulterior motive availed another loan with LIC Housing Finance Ltd. as stated above for the same purpose. The Petitioner want only has not deposited the title deed with the bank. Further, it is impossible to create two equitable mortgages with original title deed of same property. Therefore, the contention of the Petitioner that he has created an equitable mortgage with the erstwhile employer and termination of his service for non-creation of equitable mortgage is false. The Petitioner in his letter dated 6-2-2002 addressed to the Vice President, Personnel Division, Chennai admitted having availed 2nd housing loan from LIC Housing Loan Ltd. for the same property

which was offered as security with the Respondent/Bank. Further, the Petitioner's wife has addressed the Vice President, HRD stating that the Petitioner has suppressed the fact about the loan pending with Respondent/Bank and had obtained a guarantee from her for availing loan from LIC Housing Finance Ltd. and the same is revealed from the enquiry records. The two letters written by the Petitioner's wife were also marked as exhibits in domestic enquiry. Thus, it is clearly proved that the Petitioner has suppressed the vital fact that he has created equitable mortgage with the Respondent/Bank. With regard to negligence and misappropriation these allegations are not made with regard to one and the same transaction. The customer copy of voucher dated 1-8-2001 was marked as exhibit in the enquiry and only after a detailed investigation carried out by Mr. V. Kumarsundaram, Assistant Vice President, it was found that the Petitioner has not accounted for the said amount in the books of the bank and all the relevant documents were marked in the enquiry. Negligence on the part of the Petitioner in his duty as cashier in non-accounting the cash remitted by the customer was proved beyond all reasonable doubt. Further, the Petitioner was given full opportunity to cross examine the witnesses and also to produce documents relevant for his defence. But, he has not examined any witness nor produced any documents to show that he was not negligent. On 16-8-2001 the Apollo Hospital has made payment in the Respondent/Bank in Cenotaph branch in bundles in which Rs. 1,000/- was found short. When it was questioned the Petitioner explained that on account of heavy rush in the counter, he counted the cash received from Apollo Hospital by denomination of bundles and not by leaves. It is also evident from the shroff report that the Petitioner has paid Rs. 700/- towards the shortage of Rs. 1,000/- and further one Mr. Abdul Azeez remitted Rs. 3,370/- through voucher dated 9-7-2001 for his credit card payment and in the said voucher Mr. Abdul Azeez has given detailed denominations but wrongly totalled as Rs. 1,370/-. The said voucher had been marked as exhibit in the enquiry which revealed that the customer has paid Rs. 3,370/- towards his credit card payment with the bank and the Petitioner as cashier after verifying the denomination mentioned in it has received the cash. Taking advantage of wrong totalling, the Petitioner with malafide intention accounted for only Rs. 1,370/- in the system and misappropriated the balance amount of Rs. 2,000/- and the same was proved in the enquiry. No doubt, on 1-8-2001 the Branch Manager Mrs. Swapna Rani assisted the Petitioner to ease the crowd by collecting cash and challans from customers waiting in the long queue. But, the Petitioner has admitted in his explanation that the Branch Manager has handed over all cash and challans to him before she left the cash counter and accepted the responsibility and the said letter was also marked in the enquiry. Therefore, the Petitioner cannot take advantage of the fact that Smt. Swapna Rani has also looked after the cash on 1-8-2001 and therefore, the Enquiry

Officer's findings with regard to third charge is without any basis. Therefore, at no stretch of imagination, it can be said that the findings of the Enquiry Officer is perverse. With regard to disproportionateness of the punishment in this case, this is a case where the Petitioner's conduct warrants severe action due to doubtful integrity of having suppressed vital information with ulterior motive. This is a case where the employee with full application of mind availed another loan from another organisation for the same purpose showing same document which made his integrity doubtful. Since the Respondent/bank has engaged in banking service which involves public money and as the Respondent/Bank had every reason to lose confidence on the Petitioner as the Petitioner has misappropriated the public money. The punishment imposed by the Respondent/Management is appropriate and shall not call for any interference by this Tribunal and under such circumstances, the claim is to be dismissed with costs.

10. No doubt, in this case, the Petitioner alleged that with the permission of the erstwhile employer he has taken back the title deeds through which he has created equitable mortgage, but there is no proof to show that he has obtained permission from the erstwhile employer to create another equitable mortgage with the same document from another organisation and therefore, from the documents produced on the side of the Respondent, I can come to the conclusion that this allegation was made by the Petitioner only to wriggle out the situation.

11. With regard to negligence and also misappropriation, the Petitioner has not stated how his action on 1-8-2001 and 16-8-2001 cannot be termed as negligence. Further, from the enquiry report, it is clear that on 9-7-2001, he has accounted only Rs. 1,370/- instead of Rs. 3,370/- and he has not stated any reason for this discrimination and under such circumstances, it cannot be said that he has not misappropriated the amount deposited by Mr. Abdul Azeez, customer of the Respondent/Bank. Similarly, with regard to third charge namely that he was in unauthorised absence for the period from 12-12-2001 to 14-2-2002, even though he has stated that he was not permitted to join duty by the Respondent/Bank, there is no satisfactory evidence to show that the Petitioner was prevented from joining duty on 13-12-2001. Even though he has stated that he was not permitted to join duty from 13-12-2002 to 14-2-2002, there is no satisfactory evidence to substantiate the claim that the Petitioner was prevented by the Respondent/Bank and nothing was produced on the side of the Petitioner that he has issued any notice or filed any complaint against the Respondent/Bank for not permitting him from joining duty. Under such circumstances, it cannot be said that the Petitioner was prevented from joining duty by the Respondent/Bank.

12. On the side of the Petitioner, it is alleged that the Respondent/Bank in its search for reason to terminate the services of the Petitioner has made out a case, as if the Petitioner has failed to create equitable mortgage and also

negligent and misappropriated the sum of the Respondent/Bank. But, in reality it is not true to say that he has failed to create equitable mortgage for availing housing loan and further, even though the Respondent alleged short accounting of cash on 1-8-2001, nearly only after six months, after the alleged incident, the Respondent/Bank has made the allegation that the Petitioner has misappropriated the amount of Rs. 2000/- but they have not proved the case before the domestic enquiry. Further, the Respondent/Bank has not given any reason for taking action against all these things after a long lapse of time. This itself clearly proved the malafide intention of the Respondent/Bank and it is clearly shown that the Respondent/Bank has bent upon doing away with services of the employees of the Bank of Madura by hook or crook. The Respondent/Bank has not proved the charges and also the negligence alleged against the Petitioner and therefore, the action of the Respondent/Management is only unfair labour practice and the punishment imposed by the Respondent/Bank is disproportionate to the charges alleged against the Petitioner. Under such circumstances, an award is to be passed by this Tribunal holding that the charges framed against the Petitioner is with malafide intention and therefore, direct the Respondent/Bank to reinstate the Petitioner into service with all benefits.

13. Though, I find some force in the contention of the learned counsel for the Petitioner, I find there is no substance in the contention because it is clearly established before this Tribunal that the charges framed against the Petitioner has been proved by documentary and oral evidence before the domestic enquiry.

14. Further, the learned counsel for the Respondent relied on the ruling reported in 1999(4) SCC 759 STATE BANK OF INDIA & OTHERS Vs T.J. PAUL wherein the Supreme Court has held that "*doing any act prejudicial to the interest of the bank or gross negligence involving or likely to involve the bank in serious loss*" and it further held that "*in contest, proof of actual loss was not necessary to attract this clause and likelihood of loss was enough to hold an employee guilty*" and the learned counsel for the Respondent argued that though the Petitioner has alleged that there is no loss to the Respondent/Bank even likelihood of loss was enough to hold the employee guilty under, I.D. Act and therefore, the Petitioner cannot say that the punishment imposed on the Petitioner is disproportionate to the charges framed against him. The second judgement relied on by the Respondent is reported in 2000 9 SCC 521 U.P. STATE ROAD TRANSPORT CORPORATION Vs. MOHAN LAL GUPTA AND OTHERS while dealing with Section 11A of I.D. Act, the Supreme Court has held that "*discharge or dismissal or workman ought not to be interfered by Labour Court when on facts, the Court could not substitute its own confidence and direct reinstatement, when the charge against the storekeeper for shortfall and when the Labour Court*

satisfying itself that domestic enquiry was properly conducted, yet by taking a lenient view awarding stoppage of four increments with cumulative effect is not appreciable. Such interference was held, not called for because it involves confidence in its employee." Learned counsel for the Respondent further relied on the rulings reported in 1997 1 SCC 299 NARAYAN DATTATRAYA RAMTEERTHAKHAR Vs. STATE OF MAHARASHTRA AND OTHERS, wherein the Supreme Court has held that "in a case where removal from service was ordered for misappropriation of public money, even on merits also we do not think that there is any case made out for interference. The finding is that the Petitioner has committed misappropriation of the public money and his removal from service is an appropriate order." The next case relied on by the learned counsel is reported in 2005 (2) SCC 481 BHARAT HEAVY ELECTRICALS LTD. Vs. M. CHANDRASEKAR REDDY AND OTHERS. In this case, while dealing with discretion under section 11A, the Supreme Court has held that "no authority be it administrative or judicial has any power to exercise discretion vested in it unless the same is based on justifiable grounds supported by acceptable materials and reasons therefore and without a finding based on records that fact of loss of confidence or quantum of punishment is so harsh as to be vindictive or shockingly disproportionate, interference with the award of punishment in domestic enquiry is impermissible. The misconduct proved against the Respondent was so serious or grave as to create a genuine lack of confidence in him on part of the appellant and Labour Court itself had come to this conclusion and in such circumstances, the question of exercising jurisdiction to alter or reduce the punishment does not arise at all. By no stretch of imagination either the extenuating circumstances recorded by Labour Court or exercise of discretion could be termed either reasonable or judicious." The another judgement relied on by the learned counsel for the Respondent is reported in 1998 1 LLJ 117 GODREJ AND BOYCE MANUFACTURING CO. LTD. MADRAS Vs. PRESIDING OFFICER, LABOUR COURT, MADRAS AND ANOTHER, wherein the Madras High Court has held that "under section 11A and 17A jurisdiction and powers of Labour Court to interfere with quantum of punishment has to be exercised judicially and such power could be exercised only when it is found that punishment imposed by the management is highly disproportionate to the degree of guilt of workman. The question of rehabilitation and reformation of employee could arise only in case of minor delinquency. When the workman found to be guilty on charges of misappropriation and cheating cannot be directed to be reinstated without back wages on the view that he is married man and he should be reinstated lest to avoid suffering to family of workman is not legal and proper." Further, the learned counsel for the Respondent relied on the rulings reported in 2001 3 LLJ 1153, wherein the Madras

High Court has held that "the amount misappropriated is only Rs. 3.75 is irrelevant and what is to be borne in mind is the action of the delinquent resulting in loss of revenue to the Corporation and in this case the Labour Court had taken into consideration the requirements under section 11A and rightly held the order or dismissal to be fair." Relying on these decisions, the learned counsel for the Respondent contended that in this case, it is clearly established that the Petitioner's conduct warrants severe action due to doubtful integrity of having suppressed the vital information with an ulterior motive. The Petitioner with full application of mind availed another loan from another organisation for the same purpose showing the same document which made his integrity doubtful. Since the Respondent is engaged in banking business which involves public money and as the Respondent/Bank has every reason to lose confidence on the Petitioner, as the Petitioner has misappropriated the public money, in this case the punishment imposed by the Respondent/Bank is appropriate and shall not call for any interference at this stage.

15. I find much force in the contention of the learned counsel for the Respondent. In this case, as I have already pointed out, the Petitioner has not produced any evidence that he has created another equitable mortgage with the permission of erstwhile employer and under such circumstances, I find there is no point in the contention of the learned counsel for the Petitioner that the punishment imposed on the Petitioner is disproportionate to the charges framed against him. Similarly, with regard to negligence on the part of the Petitioner and also misappropriation of funds of the Respondent/Bank. I find the Respondent/Bank have clearly established the same in the domestic enquiry that the Petitioner was negligent and he has also misappropriated the sum of Respondent/Bank, and therefore, I find the action of the Respondent/Management in dismissing the Petitioner from service is justified.

Point No. 2 :

The next question to be decided in this dispute is to what relief the Petitioner is entitled?

16. In view of my forgoing findings that the action of the Respondent/Bank in dismissing the Petitioner from service is justified, I find the Petitioner is not entitled to any relief. No Costs.

17. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd June, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner : WW1 Sri P.C. Kumar

For the II Party/Management : MW1 Sri N. Muthukrishnan

Documents Marked :

For the I Party/Petitioner : Nil

For the II Party/Management :

Ex No.	Date	Description		
M17	Nil		Xerox copy of the statement of account from 24-4-2000 to 22-12-2001 relating to refinance loan.	
M18	03-12-01		Xerox copy of the letter from LIC housing finance Ltd. to Bank of Madura.	
M19	12-12-01		Xerox copy of the certificate issued by LIC housing Finance Ltd. to the Petitioner.	
M20	13-12-01		Xerox copy of the letter from Petitioner's wife to Respondent/Management.	
M21	13-12-01		Xerox copy of the credit advice given by Respondent.	
M22	22-12-01		Xerox copy of the letter from Petitioner's wife to Respondent/Management.	
M23	09-07-02		Xerox copy of the letter from LIC housing finance Ltd. to Respondent alongwith salary certificate.	
M24	28-04-01		Xerox copy of the salary slip of Petitioner for April, 2001.	
M25	Nil		Xerox copy of the leave application of Petitioner.	
M26	02-01-02		Xerox copy of the medical opinion.	
M27	07-07-95		Xerox copy of the valuation report of Bank of Madura.	
M28	Nil		Xerox copy of the estimate for repair works.	
M29	28-06-01		Xerox copy of the letter from Petitioner to Respondent.	
M30	09-07-01		Xerox copy of the voucher relating to credit payment of Sri T. Abdul Azeez.	
M31	24-10-01		Xerox copy of the voucher alongwith plan.	
M32	09-02-02		Xerox copy of the e-mail	
M33	01-08-01		Xerox copy of the voucher relating to credit card payment of P.A. Shanmugam	
M34	01-08-01		Xerox copy of the voucher alongwith plan.	
M35	29-09-01		Xerox copy of the investigation report with statement of Petitioner and letter of Mr. D. Ravi.	
M36	16-08-01		Xerox copy of the voucher alongwith plan.	
M37	16-08-01		Xerox copy of the shroof cash report of Respondent/Bank.	
M38	30-10-01		Xerox copy of the letter from Respondent to Petitioner.	
M1	26-02-02	Xerox copy of the charge sheet issued to Petitioner.		
M2	6-02-02	Xerox copy of the letter from Petitioner to Respondent.		
M3	28-03-02	Xerox copy of the explanation to charge sheet.		
M4	28-06-01	Xerox copy of the transfer order given to Petitioner.		
M5	8-09-01	Xerox copy of the relieving order issued to Petitioner.		
M6	11-09-95	Xerox copy of the house loan application to the Petitioner.		
M7	13-10-95	Xerox copy of the letter of sanction of housing loan issued to Petitioner by Bank of Madura Ltd.		
M8	24-04-00	Xerox copy of the statement of account relating to Housing loan of Petitioner.		
M9	Nil	Xerox copy of the letter of sanction for secured loan to Petitioner by Bank of Madura.		
M10	Nil	Xerox copy of the statement of account for the period 24-1-00 to 7-1-02 relating to secured loan of Petitioner.		
M11	Nil	Xerox copy of the statement of account relating to NRPF loan availed by Petitioner		
M12	18-04-99	Xerox copy of the letter from Anna Nagar branch to Central Office of Bank of Madura.		
M13	10-10-01	Xerox copy of the letter from Anna Nagar branch to Corporate office of Respondent.		
M14	17-10-01	Xerox copy of the letter from Inspecting Officer to Inspection department.		
M15	09-02-98	Xerox copy of the application for housing loan under Refinance scheme given by Petitioner.		
M16	02-03-98	Xerox copy of the sanction letter for housing loan under Refinance Scheme issued by Respondent.		

M39 Nil	Xerox copy of the attendance register for the month of July & August, 2001 of Cenotaph Road branch
M40 21-07-98	Xerox copy of the letter from Personnel Division to Anna Nagar branch of Bank of Madura
M41 30-03-99	Xerox copy of the letter from Personnel Division to Anna Nagar branch of Bank of Madura
M42 Nil	Xerox copy of the EC for 25-11-94 to 26-11-01 for house Property
M43 Nil	Xerox copy of the EC for 25-11-94 to 6-7-01 for the house Property
M44 05-09-02	Xerox copy of the minutes of enquiry proceedings
M45 09-11-02	Xerox copy of the written arguments of Respondent
M46 04-12-02	Xerox copy of the written arguments of Petitioner side
M47 26-12-02	Xerox copy of the enquiry findings
M48 16-01-03	Xerox copy of the order of Disciplinary Authority
M49 31-03-03	Xerox copy of the order of Appellate Authority
M50 07-04-03	Xerox copy of the returned postal cover.
M51 Nil	Xerox copy of the list of title deeds deposited for Equitable mortgage by the Petitioner.

नई दिल्ली, 18 अक्टूबर, 2005

क्र. आ. 4225.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, धनबाद के पंचाट (संदर्भ संख्या 42/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-41011/29/2000-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4225.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 42/2001) of the Central Government Industrial Tribunal No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Eastern Railway and their workmen, Which was received by the Central Government on 17-10-2005.

[No. L-41011/29/2000-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 1, DHANBAD

In the matter of a reference U/S. 10(1)(d)(2A) of I.D. Act,

Reference No. 42 of 2001

PARTIES: Employers in relation to the management of Eastern Railway, Dhanbad

AND

Their Workmen.

PRESENT : SHRI SARJU PRASAD,
Presiding Officer

APPEARANCES:

For the Employers : None

For the Workmen : Shri Ajoy Kumar,
Br. Secretary of the Union

Dated, the 27th September, 2005

AWARD

By Order No. L-41011/29/2000/IR(B-I) dated the 8th February, 2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Eastern Railway Administration at Dhanbad in not making the payment of over time and out station duty to the Diesel Drivers and Asstt. Drivers of Gomch Railway Station, Eastern Railway under Divisional Railway Manager, Eastern Railways, Dhanbad is justified and legal? If not to what relief the workmen are entitled to?"

2. This reference case was fixed earlier on 20-10-2005 but today (27-9-2005) the Branch Secretary of the sponsoring Union appearing on behalf of the concerned workmen submits that the concerned workmen are not interested to contest the case further and he has also prayed to pass a 'No Dispute' award in this case.

3. In view of such prayer being made, I render a 'No Dispute' Award in the present reference case.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का.अ. 4226.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या आई.डी.-189/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/238/91-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4226.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 189/91) of the Central Government Industrial Tribunal/Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/238/91-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHANDIGARH**

Case No. I.D. 189/91

General Secretary,
SBI Staff Congress,
3135, Sector-22D,
Chandigarh.

.....Petitioner

Versus

General Manager,
State Bank of India,
Local Head Office, Sector -17,
Chandigarh.

.....Respondent

APPEARANCES :

For the workman : Workman with
Shri Shailender Sharma,
Advocate

For the management : Shri D. V. Mehta,
Advocate

AWARD

Passed on 26-9-2005

Central govt. vide No. L-12012/238/91-IR-(B-III) dated 19th of December, 1991 has referred the following dispute to this Tribunal for Adjudication :

SCHEDULE

"Whether Shri Prem Singh was a workman of State Bank of India ? If so, whether the non-grant of regular scale of pay and apprehended termination of services of Shri Prem Singh, Driver, by the State Bank of India, Chandigarh is justified ? If not, to what relief Shri Prem Singh is entitled to ?"

2. Claim statement has been filed by one Shri J. G Verma mentioning himself as authorised representative wherein he averred that there is a master and servant relationship between the bank, and the petitioner Prem Singh. He was paid salary by the bank routing through the General Manager(P) yet for all intents and purposes the petitioner was an employee of the bank. He was duly controlled by the bank and he was deputed for outstation duty. That office manager of the LHO issued identity card to him and he is not a personal driver of the GM(P) or any other officer, (Copy of the Identity Card attached With the claim statement). He used to be deputed on bank duty to Amritsar, Shimla and other stations and getting advance by debit the suspense account to meet the expenses of the tour. That the log book maintained by the workman is authenticated by the liaison officer of the manager of the LHO. He was often deputed by the bank to get the car repaired at the garage or mechanics shop and received amount for paying them. The record of the bank establish that the petitioner was employed by the bank and he worked under the control and supervision of the office manager. Mere routing payments of wages through General Manager can not bring the petitioner out side the employment of the bank. He further claimed that a personal driver engaged by the general manager can not be deputed to out station duties connected with the official business of the bank performed by the General Manager.

3. Management filed written statement raising preliminary objection, (i) that there is no privity of contract between the petitioner and the SBI and there is no relationship of master and servant, employer and employee, therefore, SBI Staff Congress has no locus standi to raise the present dispute and the petitioner is not a workman as such. (ii) State bank of India has not been arrayed as respondent against whom entire relief has been claimed by the workman and GM(P) is the only respondent in the claim petitioner, therefore, the present petition is not maintainable. On merits the management denied all the allegations contained in the claim statement of the workman stating that, his name is not on the payrolls of the bank Petitioner never did the bank's duty rather his services were used by the GENERAL MANAGER (PLANNING) in the manner required as per

terms of his employment. As regards petitioner's contentions of receiving advance amount, it has ready been submitted that the payments were made for the purchase of petrol etc. during the GM(P)'s visit out of Chandigarh. Similarly, payments in respect of repairs done to the bank's car were also made to him. General Manager (Planning) was the paymaster of the petitioner. There is no nexus between bank and the petitioner and entire control over the petitioner was vested in his employer i.e. GM(P), who used his services in the manner he liked. It was a contract for services required by the GM(P) in his official & personal capacity. There is no violation of any rules or Bi-partite Settlement or Award as there was no relation of master and servant. No unfair labour practice has been committed by the bank. The petitioner is not entitled to any payment as per scales of wages applicable to the Drivers employed by the bank. The management denied the assertions and claim of workman.

4. Workman filed replication wherein he reiterated the claim made in the statement.

5. Workman in evidence filed his own affidavit along with documents which are bills of service repair of the car by the mechanics carried out of the bank car which was driven by the workman. Workman was cross-examined at length as WW1. Similarly management also filed affidavit Ex. M1 wherein he repeated the stand taken in written statement.

6. On perusal of the reference I have found that the petitioner is the General Secretary SBI Staff Congress, Sector 22, Chandigarh whereas respondent is made General Manager SBI LHO, Sector-17, Chandigarh. But both parties submitted that only point of contest is whether Prem Singh is an employee of the bank or not.

7. I have heard arguments advanced by the parties and workman and management also filed written arguments.

8. Workman advocate in oral arguments as well as in written arguments submitted that workman was appointed as driver in the year 1989 by the management on a monthly salary of Rs. 850 per month. Identity card was also issued which reflects that the workman was a driver. The workman was attached with the GM(P), SBI Head Office, Sector 17, Chandigarh and a car bearing registration No. CHF 651 was entrusted by the management to the workman. The workman was required to maintain the log book of the official car which was signed by the liaison officer of the management daily and also checked by the officer of the management once in a month. Workman maintain the log book which is Ex. W2 on the record. That the workman continuously discharged his duties as driver without any break from July 1989 to 5-12-1990 and has completed more than 240 days in a calendar year. During the course of employment,

the workman used to get the official car repaired on various occasions and submitted the repair bills which are Ex. W3 to W23, which also bears the signatures of the workman. Management used to reimburse to the workman the expenses which the workman used to do in connection with the affairs of the bank and his duty. Copy of the 8 cheques issued by the bank from 18-4-90 to 10-10-1990 are Ex. W24 to W31. The management illegally and without complying with the mandatory provisions of the I.D. Act terminated the services of the workman in the first week of December 1990 and while terminating the services of the workman, the management kept the persons juniors to the workman. That the management has taken a stand that he was a personal driver of the GM(P) and the bank had nothing to do with the workman but the management has not produced the said GM(P) as a witness to support their contention that the workman was his personal driver and not the driver engaged by the bank. The management has admitted the fact that identity card was issued to the workman but has taken a stand that the identity card was issued for smooth functioning of duties because of curfew in Chandigarh but no evidence has been produced by the management that in the year 1990 curfew was imposed in Chandigarh. Further management witness MW1 has admitted in cross-examination that identity card was issued by the bank only to its employees and not to the outsiders. It has also been admitted by the MW1 that the bank make payments only to the customers or to the persons from whom the services were availed and do not make any payment to the person who is neither the customer nor any services were availed through him. Thus payment through cheques Ex. W24 to W31 proves that the workman was the employee of the bank and the expenses incurred by him was reimbursed by the bank and he is not the personal driver of the GM(P) as alleged by the bank, the bank would not have made the payment to the workman vide cheques Ex. W24 to W31 and the payments would have been made to the GM(P). From all the evidence produced on record shows that the workman was engaged by the management as driver and his services were illegally terminated by the management. Hence his service may be reinstated. Learned counsel for the workman also referred to 2001(5) SLR page 163 *Alkem Lab. Pvt. Ltd. Vs. Third Industrial Tribunal* and Ors. 2002 (2) SLR 408 *Indian Overseas bank Vs. IOB Staff Canteen Workers Union* and Anr. 1997 (1) SLR 786 *Ms. Jogi Industries Vs. PO. Labour Court Jalandhar* and others. 1996 (5) SLR 569 *Bal Kishan Vs. Presiding Officer, Labour Court, Rohtak*, 2000(6) SLR 91 *Aloysius Nunes Vs. M/s. Thomas Cook India Ltd.* and 1999 (2) SLR 173 *The workman Vs. Anand Bazar Partika Ltd.* and Ors. Workman advocate also relied 2003 (1) SLR wherein the management was claiming that the workman is not a workman but a supervisor.

9. While summing up his arguments workman counsel submitted that workman was not the personal driver of the GM(P) and was the employee of the bank and management bank has terminated his service in violation of Section 25F of the I.D. Act as he has completed more than 240 days in a calendar year.

10. In reply the learned counsel for the management submitted that Prem Singh was not the driver of the SBI and as such there is no relationship of master and servant between them. He is not the driver of the management Bank and as such no appointment letter was ever given to the workman by the management and no termination letter was given to the workman. It is further submitted that SBI provides to the officers in the top executive grade scale VII (General Managers) bank's car for their use and they are reimbursed with the salary paid by them to the personal drivers privately engaged by them. In the instant case, Shri Prem Singh may have been engaged occasionally by the General Manager (Planning) as his personal driver. The temporary identity card was issued to him during the days of curfew/bandhs etc. in the year 1990 in order to facilitate his entry at various places during the movement of General Manager (Planning) in his car. The payments of cheques referred to by him were not made to him for any services rendered to the bank but only to meet the expenses of petrol, maintenance, repair etc. during visits of General Manager (Planning) outside Chandigarh, which the bank is liable to pay. The petitioner was not working in the bank, directly under the supervision and control of the Office Manager and his name was not on the pay rolls of the bank. There was no relationship of master and servant employer and employee between the bank and the workman so the question of termination of his service does not arise at all. The documents submitted by the workman do not prove at all that the workman was an employee of the bank and as such workman absolutely failed to prove his case. He also relied on a judgment of Hon'ble Supreme Court AIR 1978 SC wherein it was held that the personal driver of an area manager of a nationalised bank is not a person employed by the bank. Workman also failed to prove that he has completed more than 240 days in a calendar year or that he was ever paid his salary by the bank. He has also not proved that he used to mark his attendance in the bank. He simply say that he was maintaining a log book. Maintenance of log book and also taking the GM(P) outstation does not give any right to the workman to say that he was an employee of the bank. It is not the case of the workman that he applied for the post and he was interviewed. He simply stated that he was appointed as driver and he worked in the bank as a bank employee w.e.f. July 1989 to 5-12-1990. He submitted that workman did not file this claim himself and in his affidavit and claim statement not stated that he was appointed and how and in what manner

he was appointed and he concealed this fact. Simply in para 11 of the claim statement stated that he was employed as a driver w.e.f. July 1989 and retained in the service upto Nov., 1990. He simply filed the documents which are the bills drawn on SBI LHO. Chandigarh and cheques are in the sum of Rs. 25 dated 18-4-90, 4-5-90 for Rs. 500, 9-5-90 for Rs. 14, 14-5-90 for Rs. 32.47 and 19-5-90 for Rs. 500, 30-7-90 for Rs. 14 and 12-12-90 for Rs. 30. He also submitted that as per bills there is one bill dated 1-9-89 Ex. W4 and other bills are of 1990. He also submitted that authorities relied by the workman are not applicable as workman did not work for 240 days. In view of the judgment of the Hon'ble Supreme Court reported in [JT 2002(2) S.C. 238] in the case of Range Forest Officer Vs. S. T. Hadimani. The Hon'ble Supreme Court has held as under :

"In our opinion, the tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but his claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact, worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that can not be regarded as conclusion that a workman had, in fact, worked for 240 days in a year."

11. He also submitted that as regard judgement of the Hon'ble Supreme Court relied by the management in AIR 1978 SC page 481, it is held in clear term that personal driver of area manager of nationalised bank is not a person employed by the bank. It was held that absence of material, however to make out that the driver was employed by the bank was under its direction and control, was paid his salary by the bank and otherwise was included in the army of employees in the establishment of the bank—no evidence to show circumvention of any statute—held that the conclusion that the driver was employed by the bank was erroneous. It was further held that area manager of nationalised bank who had been given personal allowance of Rs. 200 to enable him to employ a personal driver of his own. Learned counsel submitted that if such register is being maintained by the workman, it does not make the workman as bank employee, he also submitted that as regards the judgement referred by the workman of Indian Overseas Bank of the Hon'ble Supreme Court (supra) it is held by the Hon'ble Supreme Court that in that case the providing canteen facilities to its employees—canteen was operated by bank employees as promoters by rotation bank providing all facilities and financial assistance for running the canteen—bank also insisting upon employees from time to time avail of the canteen facilities. The canteen in question was being run from the year 1973 but closed in

1990 rendering 33 canteen workers unemployed. It is also held in this judgement that Tribunal while holding the canteen employees to be workman and directed the bank to provide class IV status and facilities to such workmen. In such situation it was held that the canteen employees are the workmen of the bank. He also submitted that in view of another judgement of the Hon'ble Supreme Court in the case of the bank management of State Bank of India Vs. SBI Canteen employees AIR 2000 S.C. page 158 it was held that according to Sastri Award, it does not cast any obligation on the SBI to provide canteen facilities by running a canteen. It was further held that canteen run by the Local Implementation Committees are non statutory canteen and their employees are not the workmen. He further submitted that management of State Bank of India has proved that there is no relationship of employer and employee and workman Prem Singh is not an employee of the bank. Hence reference may be answered in favour of the bank as workman failed to prove the reference in his favour.

12. In view of the above submissions and my perusal of evidence, documents and written submissions made by both the parties, I have found that the references sent to this court for adjudication is (1) whether Shri Prem Singh was a workman of State Bank of India? (2) If so, whether non-grant of regular service pay scale and apprehended termination of service to Shri Prem Singh by SBI is justified? I have found that as per reference this learned court has to adjudicate whether Prem Singh was a workman of SBI and secondly whether he is entitled for the grant of regular pay scale and whether apprehension of termination in the mind of Prem Singh is justified. I have found that before this reference was received for adjudication as per claim statement of the workman, there is an allegation that workman services were terminated in July 1990. The workman has prayed in his claim statement that he may be reinstated with full back wages, continuity of service and the difference of wages and payment as a driver. From the evidence on record, firstly, I prefer to decide whether workman is an employee of the SBI.

13. In this regard in view of the law referred by the bank and evidence on record and policy of the bank providing facility of a driver to be engaged by its managers and his wages to be reimbursed by the bank and my discussion above, I have found that workman failed to produce any document or evidence that he was paid monthly wages for 1st three months @ of Rs. 850 PM and therefore, at the increased rates as Rs. 1050 PM or that he completed 240 days in a calendar year, as claimed prior to its termination. On the other hand there is judgement of Hon'ble Supreme Court AIR 1978 S.C. 481 that personal driver of area manager etc. are not employee of the Bank. Payment vouchers produced by the workman speaks against the workman as all are less than Rs. 850 or Rs. 1050. Therefore, I hold that management has proved

that Prem Singh is employee of General Manager (P) appointed by him and not a workman of State Bank of India. As such there is no relationship between them of master and servant.

14. As a consequences as I have held above and decided that Prem Singh is not a workman of State Bank of India, I further hold and decide that non grant of regular service pay scale is justified. As regard his apprehended termination, as he was disengaged and his disengagement is also justified. The action of the State Bank of India is justified and legal and workman is not entitled for any relief. Accordingly, the reference is answered accordingly in favour of the State Bank of India and against the workman. Central Government be informed. File be consigned to record.

Chandigarh

Dated: 26-9-2005

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का.अ. 4227.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.सी.आई.सी.आई. बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-356/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/111/2004-आईआर(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4227.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 356/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai new as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ICICI Bank Ltd. and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/111/2004-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Friday, the 22nd July, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 356/2004

(In the matter of dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of ICICI Bank Ltd. and their workmen.)

BETWEEN

Sri N. Ganesan : I Party/Petitioner

AND

The Manager-HR : II Party/Management
ICICI Bank Ltd., Chennai.

APPEARANCES :

For the Petitioner : M/s. S. Vijayadharani,
Advocates

For the Management : M/s. Ramasubramaniam &
Associates, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/111/2004-IR (B-I) dated 13-05-2004 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the action of the management of ICICI Bank Ltd. in terminating the services of Shri N. Ganesan w.e.f. 10-8-2002 without conducting any enquiry etc. is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 356/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner worked in Respondent/Bank branch at Sowcarpet, Chennai from 4-4-1990 and he was in service for more than twenty years. His retirement date is 28-2-2022, but he was illegally terminated from service and a letter was issued to that effect on 10-8-2002. The reason stated in the letter is that the Petitioner was asking leave very often and therefore, he was terminated from service. The allegation in the letter is not true and the Respondent behaved in a very arbitrary and illegal manner by not only terminating the Petitioner's service but also by cutting down the terminal benefits of the Petitioner. Even though the Petitioner rejoined the duty on 10-8-2002 the Respondent refused to accept the petitioner in joining duty. Above all, the Respondent did not conduct any enquiry on initiating disciplinary proceedings against the Petitioner and this attitude of the Respondent is totally against the principles of natural justice. The action of the

Respondent is illegal and the Respondent ought to have conducted enquiry and gave an opportunity to Petitioner to rejoin duty. The Respondent failed to follow the procedure contemplated under Industrial Disputes Act before terminating the services of the Petitioner. Therefore, the action of the Respondent is arbitrary, mala fide and illegal. Hence, he prays that an award may be passed in his favour to reinstate him with continuity of service, back wages and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner has joined the service in erstwhile Bank of Madura Ltd. in the year 1982 in the cadre of sub-staff and he had been serving in various branches of the said bank. Subsequently, the Bank of Madura merged with ICICI Bank on 10-3-2001 and consequently, the Petitioner and other employees of erstwhile Bank of Madura were absorbed as employees of Respondent/Bank. The Petitioner was a chronic absentee and used to remain absent without any prior approval or intimation from the Respondent for months together. The Petitioner was unauthorisedly absent on loss of pay for about 739 days during the entire period of service in the bank and he was warned on several occasions and also was imposed with punishment of withholding of annual increments. Thus, the Petitioner had remained absent from duty from 24-7-2001 without any prior permission or sanction by the Respondent/Bank. By his letter dated 7-8-2001, the Petitioner requested the Respondent leave for a period from 24-7-01 to 22-9-01. Subsequently, the Respondent/Management issued a telegram on 16-8-2001 instructed the Petitioner to report for duty immediately. On receipt of the telegram, the Petitioner attended the duty only for a day and again he was absent from duty. Then again the Respondent/Bank issued a letter dated 15-9-2001 to the Petitioner to resume duty immediately on receipt of the letter. Subsequently, the Petitioner reported for duty for proving the charge and continued to remain absent and he was unauthorisedly absent from duty from 22-1-2002 for 197 days without any intimation to the Respondent which has caused serious dislocation and affected smooth functioning of the Respondent. The Petitioner knew that his absence is clear violation of ICICI Bank Employees Code of Conduct read with ICICI Bank Employees Disciplinary Procedure. Therefore, the Respondent issued a letter dated 10-8-02 to the Petitioner mentioning about his unauthorised absenteeism and advising him to report for duty to the branch within five days of the receipt of the letter and even in that letter, it is mentioned that if the Petitioner fails to report for duty, the Respondent had to construe that he is not interested in continuing his service with the Respondent/Bank and that he had voluntarily abandoned the service as per the Code of Conduct & Disciplinary procedure. The said letter was sent under certificate of posting as well as by Registered post to the last known address of the Petitioner. However, the letter sent by RPAD alone was returned with an

endorsement party out of station without any intimation. But even after receipt of the said letter by certificate of posting, the Petitioner did not report for duty. Since as per the Code of Conduct applicable to employees of the Respondent/Bank, an employee who unauthorisedly absents for more than 180 days in a year gives sufficient indication that he is not interested in continuing the employment of the bank, therefore, he is treated as having voluntarily abandoned the services of the bank and his name will be removed from the rolls of the bank. Hence, as per disciplinary procedure the Respondent/Bank construed the Petitioner has voluntarily abandoned the services of the bank and thereby removed his name from muster roll. Though the Petitioner has every right to take leave on any occasion, but that can be done after submitting necessary leave letter and after the same is sanctioned by Respondent/Bank. In the present case, the Petitioner after exhausting all those permissible leave, he continued to remain absent from duty without any prior permission or intimation to that effect. It is false to allege that the Petitioner resumed duty on receipt of letter dated 18-8-2002. The allegation that he was not permitted to join duty is not only false and an afterthought, but also without any basis. The Respondent had given sufficient opportunity to the Petitioner to rectify his mistake which was not utilised by the Petitioner. Therefore, the Petitioner had voluntarily abandoned the services of the Respondent. Further, at no stage did the Petitioner writ to the Respondent/Bank and claimed that he was not allowed to join duty. Therefore, the removal of his name is a consequence to the termination of services brought about by the Petitioner himself. The Respondent/Bank is a bank and it will not be in the interest of the banking public or discipline to have in the services of a bank a person whose absence goes to the extent of nearly 739 days during his service period and the termination of services of the Petitioner has been brought about by himself or in the alternative is justified on the grounds of unauthorised absence. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my determination are—

- (i) "Whether the action of the Respondent/Bank in terminating the services of the Petitioner without conducting any enquiry etc. is justified?"
- (ii) To what relief the petitioner is entitled?"

Point No. 1

6. In this case, it is admitted that the Petitioner as a sub-staff joined the Bank of Maharashtra in the year 1982 and after ICICI has taken over the Bank of Maharashtra, he continued to be in the services of Respondent/Bank. It is also admitted that the Petitioner remained unauthorised absent for duty from 22-1-2002 till 10-8-2002 totally 197

days. Though, the Petitioner has stated that he has applied for leave and it was refused and produced Ex. W2 to W7 which are copy of courier receipts, according to the Respondent, no leave letter was sent by the Petitioner to the Respondent/Management and the Respondent has not received any application. Therefore, the burden of proving that he has sent leave letters by courier is upon the Petitioner. But except producing the courier receipts, the Petitioner has not produced any document to show that he has sent leave letters through courier.

7. The allegation on the side of the Respondent is that the Petitioner is a chronic absentee and when the Petitioner was in unauthorised absence from 22-1-2002 till 10-8-2002, through the original of Ex. M6, the Respondent/Management has advised the Petitioner to report for duty immediately within 5 days from the date of receipt of the said letter. But, even after the said letter, the Petitioner has not reported for duty and therefore, as per Code of Conduct that if an employee remains absent for more than 180 days, it will be deemed that he is not interested in the services of the bank and therefore, it is presumed that he has voluntarily abandoned the work and therefore, his name will be struck off from the rolls of the Petitioner and since the Petitioner has not attended the duty even after Ex. M6 the Respondent has taken action against the Petitioner and it was construed that the Petitioner has voluntarily abandoned the services of the Respondent/Bank.

8. But, as against this, on the side of the petitioner it is contended that no reason was stated in the letter dated 10-8-2002, it is mentioned that he is taking leave very often and therefore, the Petitioner was terminated from service and this action of the Respondent is very arbitrary and the Respondent/Management has illegally terminated the Petitioner from service. Further, it is contended that the Respondent has not conducted any enquiry or initiated disciplinary action against the Petitioner, which is against the principles of natural justice.

9. But, as against this the Respondent contended that the code of Conduct of ICICI employees Disciplinary Procedure, 2001 clearly stated that in cases where the employee remains absent for more than 180 days in a year, it will be sufficient indication to the bank that he/she is not interested in the employment of the bank. The bank in such cases will issue a notice asking the employee to report for duty. If the employee does not report despite such notice, the employee will be deemed to have voluntarily abandoned the service of the bank and accordingly, his name will be removed from the rolls of the bank and it will be communicated by registered post/courier at his last known address. In this case, since the Petitioner remained unauthorisedly absent for more than 197 days, the Respondent/Bank issued notice under Ex. M6 which was sent by registered post with acknowledgement due and

also by Certificate of Posting and though the registered letter was returned with postal endorsement 'addressee out of station' he has not informed his present address and the letter sent by Certificate of Posting was received by the Petitioner and he has also admitted that he has received the letter in his Claim Statement. Under such circumstances, he must have given explanation for not attending the duty for more than 197 days and he must have attended the office immediately within five days from the date of receipt of the letter, but on the other hand, the Petitioner has not attended the office and therefore, the action taken by the Respondent/Management cannot be questioned.

10. In order to substantiate his claim, the Petitioner has examined himself as WW1 and produced 7 documents which were marked as Ex. W1 to W7. As against this, on the side of the Respondent, the Branch Head of the Respondent/Bank branch at Sowcarpet was examined as MW1 and 7 documents were marked on their side as Ex. M1 to M7. Ex. W1 is the copy of identity card of the Petitioner. Ex. W2 to W7 are copy of courier receipts and also copy of covering letter sent by the Petitioner. On the side of the Respondent Ex. M1 is the copy of telegram issued to Petitioner. Ex. M2 is the copy of letter dated 15-09-2001 sent by Respondent/Management to the Petitioner. Ex. M3 is the copy of returned cover with acknowledgement due dated 18-09-2001. Ex. M4 is the copy of the letter dated 29-6-2002 from Sowcarpet branch to corporate office of the Respondent. Ex. M5 is the copy of the letter dated 10-8-2002 from Respondent to Petitioner. Copy of returned cover with acknowledgement due dated 12-8-2002 is marked as Ex. M6. Ex. M7 is the copy of code of conduct, ICICI Bank Employees Disciplinary Procedure, 2001 and Behavioural Standards.

11. Learned counsel for the Petitioner contended that soon after the letter dated 10-8-2002 received from the Respondent, the Petitioner went to the Respondent/Bank, but the Respondent refused to permit him to join the duty and therefore, the Petitioner returned home. Further, the Respondent has not conducted any enquiry or initiated any disciplinary proceedings against the Petitioner and this attitude of the Respondent is totally against the principles of natural justice. It is further argued on behalf of the Petitioner that the Petitioner was working more than twenty years and without any proper procedure, the Respondent/Bank has terminated the services of the Petitioner and therefore, the illegal termination made by the Respondent is to be set aside.

12. As against this, learned counsel for the Respondent contended that though the Petitioner alleged that he has reported for duty after the letter dated 10-8-2002, this stand was taken only in the Claim Statement and he has not given any notice for refusal to permit the Petitioner to attend the office and this plea was taken only

as an afterthought and only for the purpose of this case. Further, even though he has produced Ex. W2 to W7 namely copies of courier receipts, now here he has stated that he has sent leave letters through these courier letters and he has not marked any copy of the leave letter alleged to have been sent through courier. Further, it is alleged that the letter was refused by the Respondent/Management but he has not produced the original letter before this Tribunal to show his bonafide. Therefore, the copy of courier receipts are created for the purpose of this case. It is further contended on behalf of the Respondent that though the petitioner has taken the stand that he was not permitted by the Respondent to rejoin duty after notice dated 10-8-2002, till the filing of Claim statement he has not given any notice that Respondent/Management has refused to permit him to work in the office of Respondent/Bank branch. The burden of proving that the Petitioner had ready to attend the office after Ex. M5 is upon the Petitioner and he has not discharged this burden with any satisfactory evidence before this Tribunal. Only he has made an allegation that the Respondent/Management has refused to permit him to attend the office, under such circumstances, it is only an afterthought and it is made only for the purpose of this case. In this case, it is clearly established by the Respondent/Management that the Petitioner was unauthorisedly absent for duty for more than 197 days continuously and even in spite of notice issued by the Respondent/Bank under Ex. M5, the Petitioner has not reported to work as called for by the notice. Further, it is established that as per Conduct Rules, the Respondent/Bank can presume that the Petitioner has no intention to join duty and he has abandoned the services of the Respondent/Bank and therefore, the Respondent/Management has rightly removed the name of the Petitioner from the rolls w.e.f. 15-9-2002. Further, the learned counsel for the Respondent relied on the rulings of the Supreme Court and High Court reported in 2000 5 SCC 65 SYNDICATE BANK vs. GENERAL SECRETARY, SYNDICATE BANK STAFF ASSOCIATION AND ANOTHER wherein in a similar case the Supreme Court has held that *"the bank has followed the requirements of Clause 16 of Bipartite Settlement and it rightly held that Dayananda has voluntarily retired from the services of the bank. Under such circumstances, it was not necessary for the bank to hold any enquiry before passing the order. An enquiry would have been necessary, if Dayananda had submitted his explanation which was not acceptable to the bank or contended that he did report for duty but was not allowed to join by the bank. Nothing of like has happened here. Assuming for a moment that enquiry was necessitated, evidence led before the Tribunal clearly showed that notice was given to Dayananda and it is he who defaulted and offered no explanation of his absence from duty and did not report for duty within thirty days of the notice as required under clause 16 of Bipartite Settlement."* The next decision relied on by the counsel for

the Respondent is 2000 7 SCC 529 ALIGARH MUSLIM UNIVERSITY AND OTHERS Vs. MANSOOR ALI KHAN. In that case, under Aligarh Muslim University non-teaching employees (terms and conditions of services)) Rules proviso was made for maximum period for which leave of any kind can be granted to a permanent employee and an employee remained absent for the said maximum period. When the case came up before the Supreme Court, the Supreme Court has held that "Rule 10 (c)(ii) enumerates that situation in which the employee remaining absent for a period exceeding the said maximum should be deemed to have resigned and ceased to be in service. Though such termination did violate principles of natural justice but not necessarily vitiated the termination order." It has held that 'conduct of employee in ignoring the employer's warning, disentitled him to relief under Article 226.' The next ruling relied on by the learned counsel for the Respondent is 2004 7 SCC 574 DELHI TRANSPORT CORPORATION Vs. SARDAR SINGH, wherein the Supreme Court has held that "habitual or continuous absence from duty without sanctioned leave for long, prima-facie, amounts to habitual negligence of duties and lack of interest in work, which constitutes a misconduct under relevant Standing Order of the Corporation and the burden lies on the employee concerned to prove otherwise by placing relevant material on record. It has further held that "when an employee absents himself from duty without sanctioned leave, the authority can on the basis of records, come to a conclusion about the employee being habitually negligent in duties and an exhibited lack of interest in employer's work and the burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. The next decision relied on by the counsel for the Respondent is 2003 2 LLN 319 MITHILESH SINGH Vs. UNION OF INDIA AND OTHERS wherein the Supreme Court has held that "absenting from duty without proper intimation is a grave offence warranting removal from service under the service rules and mere making of a request for leave which has not been accepted is not a proper intimation." Learned counsel for the Respondent further relied on the rulings reported in 1998 1 LLN 710-ANNA TRANSPORT CORPORATION Vs. LABOUR COURT, SALEM AND ANOTHER, wherein the High Court of Madras has held that "the Petitioner habitually absents himself from duty in spite of imposition of fines or suspension and he was finally dismissed from service. The Labour Court though upholding that Petitioner has been rightly found guilty of unauthorised and wholly unjustified absence from duty, considering that he has aged parents and has dependant younger brother and that he may be given another opportunity to rectify his mistake is not proper. It also held that "section 11A of the I.D. Act is not meant to be equated to charity and it is also not the object of section 11A." The last decision relied on by the counsel for the

Respondent is reported in 2001 (1) SCC 214 wherein the Supreme Court has held in similar circumstances that "unauthorised absence for 90 or more consecutive days beyond sanctioned period of leave under clause 16 of IV Bipartite Settlement and termination of service in such circumstances is not a punishment for misconduct but only a recognition of realities of the situation and does not result in violation of principles of natural justice. Therefore, no domestic enquiry is necessary." Relying on all these decision the learned counsel for the Respondent contended that even after the notice under Ex. M5, the Petitioner has not reported for duty within five days from the date of receipt of the notice. Though he has alleged that he has reported for duty, there is no substantial proof to show that he has reported for duty after the notice and he has also not mentioned the date when he has reported for duty and when the Respondent has refused to permit him. Under such circumstances, the Petitioner has not discharged the burden cast upon him to show that he has reported for duty after the notice dated 10-8-2002. Under such circumstances, under the relevant provisions of Conduct Rules the action taken by the Respondent/Bank is proper and the same cannot be questioned before this Tribunal.

13. I find much force in the contention of the learned counsel for the Respondent. From the judgements relied on by the learned counsel for the Respondent, I find such action of the Respondent/Management cannot be taken as violation of principles of natural justice. Under such circumstances, the Petitioner cannot claim that Respondent has to initiate disciplinary proceedings and the Respondent has to give an opportunity to the Petitioner to defend his case. Therefore, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief, the Petitioner is entitled?

14. In view of my foregoing findings that the action of the Respondent/Management in terminating the services of Petitioner is justified, I find the Petitioner is not entitled to any relief. No Costs.

15. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd July, 2005).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner	:	WWI Sri N Ganesan
For the II Party/Management	:	MW I Sri A.R. Sambandam

Documents Marked :

For the I Party/Petitioner :

Ex. No.	Date	Description
W 1	Nil	Xerox copy of the identity card issued to Petitioner
W 2	12-07-02	Xerox copy of the courier receipt
W 3	03-09-02	Xerox copy of the acknowledgement
W 4	24-09-02	Xerox copy of the courier receipt
W 5	16-10-02	Xerox copy of the courier receipt
W 6	18-10-02	Xerox copy of the returned cover
W 7	02-11-02	Xerox copy of the returned cover

For the II Party/Management :

Ex. No.	Date	Description
M 1	16-08-01	Xerox copy of the telegram issued to Petitioner
M 2	15-09-01	Xerox copy of the letter from Respondent to Petitioner
M 3	18-09-01	Xerox copy of the returned cover with acknowledgement
M 4	29-06-02	Xerox copy of the letter from Sowcarpet branch to Corporate office of Respondent.
M 5	10-08-02	Xerox copy of the letter from Respondent to Petitioner
M 6	12-08-02	Xerox copy of the returned cover with acknowledgement
M 7	Nil	Xerox copy of the Code of Conduct, ICICI Bank Employees Disciplinary Procedure, 2001.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4228.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सार्दन रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-30/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-41012/164/2002-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4228.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 30/2003) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workman, which was received by the Central Government on 17-10-2005.

[No. L-41012/164/2002-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 23rd August, 2005

PRESENT : K. Jayaraman, Presiding Officer

Industrial Dispute No. 30/2003

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Southern Railway and their workmen]

BETWEEN

Sri S. Rajeswaran : I Party/Petitioner

AND

The General Manager, : II Party/Management
Southern Railway,
Chennai.

APPEARANCE:

For the Petitioner : M/s. S. Vaidyanathan,
Advocate

For the Management : M/s. Vanathi Srinivasan,
Advocate

AWARD

The Central Government, Ministry of Labour vide order No. L-41012/164/2002-IR(B-I) dated 23-01-2003 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is —

“Whether the action of the management of Southern Railway to removal from services of Shri S. Rajeswaran is justified? If not, what relief he is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 30/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively :

3. The allegation of the Petitioner in Claim Statement are briefly as follows :—

The Petitioner namely Mr. S. Rajeswaran joined the services of the Respondent as Casual Labour on 23-4-74 at Quilon and subsequently he was promoted in the year 1983 and he was transferred to Madurai Division from Trivandrum Division in the year 1985. While the Petitioner was in service, he met with a major accident arising out of and in the course of employment. By that accident his right hand got severely injured and a plate was fixed to enable the hands for movement. From that day onwards, he was taking regular treatment and he had to avail all his leave to his credit for the purpose of taking treatment. On

8-7-98 the medical board declared the Petitioner unfit for Classes Aye 2 Aye 3, B1 and B2 and found fit for C1 and below with glasses. The Petitioner then requested the railway authorities to provide him the post of peon and he made several representations to the officers to provide Class IV post as he was medically found fit for Cee 1. On 16-11-98 the Petitioner was found fit for the post of sweeper and he joined the Respondent office on 18-11-98 at Rameshwaram. From 24-3-99 till 25-5-99 the Petitioner was on leave for taking treatment at railway hospital at Mandapam. Since there was no improvement, the Petitioner started taking treatment in private hospital from 26-5-99 till 15-12-99. The Station Manager, Rameshwaram asked the Petitioner to appear before Assistant Divisional Medical Officer, Mandapam to get fitness certificate and as advised by Asstt. Divisional Medical Officer, Mandapam to meet the Senior DMO, Madurai, on 20-12-99 the Petitioner was given fitness certificate and he reported for duty on 21-12-99 and the Respondent provided him employment without prejudice to disciplinary action against him for his absence for the above period. The Petitioner was issued with charge sheet for his absence from 31-3-99 onwards and for his violation of Rule 3(1) (ii) of Railway Services Conduct Rules, 1966. Even though the Petitioner has given detailed explanation, domestic enquiry was ordered against him. The Petitioner was unable to use his right hand for sweeping regularly as pain persists. The Petitioner all along requested the officers of Respondent to provide him the work of peon instead of sweeper job. Even after 26-5-2000, the Petitioner was on leave as the pain in his right hand was unbearable. In the meantime, the Respondent conducted farce of an enquiry and he was asked to sign in plain papers and he was assured that no punishment would be imposed as he was already in service and that at the most the Petitioner would be facing 'no work, no pay'. But, on the contrary, the Enquiry Officer has held that the charges contained in the charge sheet are proved and he was asked to submit his comments. The Petitioner submitted VRS by stating that his health condition do not permit him to do hard work. By an order dated 27-7-2000, the Divisional Operations Manager, Madurai passed an order of removal w.e.f. 10-8-2000. The Petitioner's appeal before the DRM, Madurai was also rejected. The revision petition filed by the Petitioner also met with the same fate. The Respondent/Management has not taken the Petitioner's good past record of service while passing the removal order. No charge sheet, no enquiry or no punishment was imposed on him earlier. In any event, his past record was not considered by the authorities. The Petitioner's leave from 24-3-99 to 25-5-99 was sanctioned because the Petitioner was taking treatment under railway Doctor and only the leave taken for treatment under a private Doctor was treated as unauthorised absence. The Petitioner submits that in any event the extreme punishment of removal from service is harsh even assuming that the charges are proved. Hence, he prays that this Tribunal should interfere with the punishment under section 11A of the I.D. Act. For all these

reasons, the Petitioner prays this Tribunal to pass an award directing the Respondent to reinstate him in service with effect from 10-8-2000 with back wages, continuity of service and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that no doubt, the Petitioner met with an accident but the narration in this regard is irrelevant, as the alleged accident took place during the year 1979 and the Petitioner was charged for his unauthorised absence in the year 1999. No doubt, the Petitioner was medically unfit from 8-7-98 for classes A2, A3, B1 and B2 but found fit for the classes C1 and below with glasses. Hence, he was provided with the post of sweeper in traffic department itself. The Petitioner accepted the offer and joined as such at Rameshwaram. The allegation that he could not do the sweeping work due to the alleged accident is imaginary. The Petitioner reported sick at Mandapam on 24-3-99 and he was directed to go to Railway Hospital, Madurai for attending Orthopaedic clinic. But, he did not attend the railway hospital as directed by Assistant Divisional Medical Officer, Mandapam and he alleged that he took treatment at railway hospital, Madurai till 25-5-99, which is false. During the enquiry, which was conducted in a just and fair manner, the Petitioner admitted the charges framed against him as answer to Question No. 3. Hence the allegation made against the Enquiry Officer is an afterthought to get the sympathy of this Tribunal. As per rules, the Respondent/Management cannot get an application for voluntary retirement from a person already removed from service. Even prior to the incident, the Petitioner was irregular in his attendance and he was imposed with a penalty of 36 months increment cut for his absence and he was also imposed with penalty of withholding of one set of privilege pass for his absence from duty. Therefore, he was a habitual absentee. The Petitioner abandoned his post by his long absence and he has not followed the Railway Medical Attendance Rules and absconded from duty. Therefore, the punishment imposed against the Petitioner is in order. Hence, for all these reasons, the Respondent prays to dismiss the claim of the Petitioner with costs.

5. Under these circumstances, the points for my consideration are—

- (i) "Whether the action of the management of Southern Railway in imposing the punishment of removal from service on the Petitioner is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :

6. In this case, the Petitioner examined himself as WW1 and produced 15 documents. Ex W1 to W11 are disciplinary proceedings and also letter correspondence between the officials of Respondent and also the Petitioner. Ex. W12 is the copy of 2A petition filed by the Petitioner. Ex. W13 is the copy of counter filed by the Respondent

before Regional Commissioner of Labour (Central). Ex.W14 is the copy of conciliation report. Ex.W15 (series) are the copy of medical certificates. As against this, the Respondent examined one Mr. J.J. Dennis, who is working as Assistant Personnel Officer, Madurai Division of the Respondent/Management and produced five documents namely Ex. M1 to M5 which are the copies of leave charts for the periods 1991-94 as Ex.M1, copy of letter form Assistant Divisional Medical Officer, Mandapam as Ex.M2, copy of enquiry proceedings as Ex.M3, Ex.M4 and M5 are proforma of sick certificate and copy of sick certificate given by the Petitioner.

7. The contention of the Petitioner in this case is that he was met with an accident arising out of and during the course of his employment in railways during the year 1979 and in that his right hand got severely injured and a plate was fixed to enable the hands for movement and due to this internal fixation, he was all along taking treatment and only because of that he was found medically unfit for the post of points man and was provided with Class IV post namely category C1. Thus, from 24-3-99 till 25-5-99 he was on leave for taking treatment at Railway hospital at Mandapam. Since there was no improvement he was taking treatment in private hospital from 26-5-99 till 15-12-99 and reported for duty on 16-12-99. But, the Station Manager asked him to appear before the Assistant Divisional Medical Officer, Mandapam to get fitness certificate. On the other hand, the Assistant Divisional Medical Officer asked the Petitioner to appear before the Senior DMO, Madurai and only on 20-12-99 he was given fitness certificate and he was allowed to work without prejudice to the disciplinary action against him for his absence for the aforesaid period and he was issued with Charge Sheet for his absence from 31-3-99 and even though he has given a detailed explanation, a farce of enquiry was conducted and he was dismissed from service and therefore, it is contended that the order of removal from service is harsh and without any proper reason.

8. But, on the other hand, on behalf of the Respondent it is contended that even though the Petitioner was found medically unfit on 8-7-98 for classes A2, A3, B1 and B2 and found fit for Classes C1 and below. The accident took place during the year 1979 and he was charge sheeted for his unauthorised absence in the year 1999 which is twenty years after his accident and he has served as sweeper cum porter for a long period and he cannot say that by doing the sweeping work, he has got pain in his right hand and therefore, his allegation is only imaginary. Since he admitted the charges framed against him, the Disciplinary Authority had come to a conclusion that removal from service is the only punishment for the major misconduct and in such circumstances, it cannot be said that the punishment given to the Petitioner is harsh and given without any reason. Further, it is the contention of the Respondent that the Petitioner was irregular in his attendance even in previous occasions and he was imposed with penalty of 36 months increment cut for his absence in respect of several periods and also imposed with punishment of withholding of one set of privilege pass for

absenting from duty and his absence was treated as extraordinary leave with medical certificate on loss of pay, since he was not having sufficient leave at his credit. All these things will clearly prove that he was a habitual absentee and hence no sympathy needs to be placed on the allegations of the Petitioner. Further, the counsel for the Respondent contended that it was held in several cases by the Supreme Court and High Courts that if the termination of an industrial employee's service has been preceded by a proper domestic enquiry which has been held in accordance with rules of natural justice and the conclusion reached at the enquiry are not perverse, the Tribunal is not entitled to consider the propriety or the conviction of the said conclusion. Under such circumstances, in this case, since the Petitioner has admitted his guilt, no enquiry was conducted and on that ground, it cannot be said that no principles of natural justice was followed. Therefore, in these circumstances, the Disciplinary Authority has imposed the punishment of removal from service, which is just and proper punishment for the major misconduct.

9. But, as against this, learned counsel for the Petitioner contended that it is conceded that the Petitioner has injured in a major accident in the course of employment in which his right hand was got jammed and internal fixation was made and from the documents produced by Petitioner, it is clear that he was getting treatment all along for this injury and further Ex.W15 which is a medical certificate and out patient chit which will clearly prove that he was under medical treatment for all along for this injury before the railway hospital and also before private doctors. It is also admitted that he was made medically unfit for the post of points man and he was demoted from that post only for the injury in his hand. Under such circumstances, the conduct of the Respondent administration is unpardonable. The Railways and public sector undertaking are expected to function as model and enlightened employers. But, in this case, even while enquiry is pending before the domestic authorities, the Petitioner has represented that he has opted for VRS. But, without considering the request of the Petitioner for VRS, the Respondent has dismissed him from service, which clearly proves the vindictiveness of the Respondent in imposing a harsh punishment. Even assuming that the charges are proved, it is clear that the Petitioner was on leave only because of pain in his right hand which was unbearable. Under such circumstances, the Respondent/Management must have come to a conclusion that his absence from duty is not wanton and only because of his medical treatment, he has absented from duty for all these periods. Under such circumstances, a lesser punishment may be ordered for the misconduct alleged against the Petitioner. Learned counsel for the Petitioner further argued that under section 11A of the I.D.Act, this Tribunal has got ample power to interfere with the punishment and under such circumstances, a lesser punishment can be awarded to the Petitioner. It is further contention that the Petitioner has rendered 27 years of unblemished service and his last drawn pay was Rs. 5600/- per month basic pay plus other allowances. Unfortunately, he was removed from service

and the Petitioner has a family to support and he has to look after not only his family but also his father and mother. Under such circumstances, the only source of livelihood has been taken away by the Respondent for no fault of the Petitioner and only due to injury caused to him while he was in service and therefore, he requests this Tribunal to interfere with the punishment under section 11A of the I.D. Act.

10. I find much force in the contention of the learned counsel for the Petitioner. From the document Ex. W15 it is clear that he has received treatment only for the injury on his right hand and this injury was caused to him while he was in duty and it is clear even when he was absented for duty, it was only because of the pain in his right hand. It is also admitted by the Respondent that while proceedings were pending before the domestic enquiry, the Petitioner has submitted an application to give up his job under VRS, but the Disciplinary Authority has held that as the Petitioner has to be dismissed from service, no application under VRS can be received and therefore, his claim was rejected. Under such circumstances, I come to a conclusion that the punishment imposed by the Respondent authorities is harsh and I further come to conclusion that the absence of the Petitioner is not wanton or wilful and it was only due to his injury in his right hand which was injured while he was on duty. Under such circumstances, I consider the punishment of compulsory retirement with pensionary benefits would be a just punishment for the misconduct alleged against the Petitioner. As such, I find the action of the Respondent/Management in passing the order of removal from service is not justified and under section 11A of the Industrial Disputes Act, this Tribunal modifies the impugned punishment into compulsory retirement with pensionary benefits, which is a just punishment for the misconduct alleged against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the concerned employee is entitled?

11. In view of my foregoing findings, I find the punishment of removal from service imposed on the Petitioner by the Respondent/Management is not justified and only the punishment of compulsory retirement with pensionary benefits will be the just and proper punishment in the facts and circumstances of this case. Ordered accordingly. No costs.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 23rd August, 2005.)

K.JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party/Claimant : WW1 Sri S.Rajeswaran
For the II Party/Management : MW1 Sri J.J.Dennis

Documents Marked:—

For the I Party/Claimant:

Ex.No.	Date	Description
W1	20-10-99	Xerox copy of the charge memo issued to Petitioner
W2	25-04-00	Xerox copy of the enquiry report from Traffic Inspector
W3	27-07-00	Xerox copy of the penalty advice
W4	25-01-01	Xerox copy of the revision petition filed by Petitioner
W5	10-04-01	Xerox copy of the letter from Petitioner to Chief Operating Manager, Southern Railway
W6	14-06-01	Xerox copy of the order of the revisional authority
W7	21-06-01	Xerox copy of the letter from Personnel Officer, Madurai to Petitioner
W8	29-06-01	Xerox copy of the letter from Petitioner to General Manager, Southern Railway
W9	13-09-01	Xerox copy of the letter from Petitioner to General Manager, Southern Railway
W10	02-04-02	Xerox copy of the reply given by Respondent to Petitioner
W11	11-04-02	Xerox copy of the letter from Divisional Personnel Officer to Petitioner
W12	10-06-02	Xerox copy of the 2A petition filed by the Petitioner
W13	27-08-02	Xerox copy of the counter statement of Respondent
W14	30-08-02	Xerox copy of the failure of conciliation report
W15	series Nil	Xerox copy of the medical certificate

For the II Party/Management:—

Ex.No.	Date	Description
M1	Nil	Xerox copy of the leave charts for the period 1991-94
M2	14-08-99	Xerox copy of the letter from Assistant Divisional Medical Officer, Southern Railway
M3	05-04-2000	Xerox copy of the enquiry proceedings
M4	Nil	Xerox copy of the proforma of sick certificate
M5	Nil	Xerox copy of the sick certificate issued to Petitioner

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4229.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई डी-17/2005) को प्रकाशित करती है, जो सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12011/11/2004-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4229.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. No. 17/2005) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 17-10-2005.

[No. L-/12011/11/2004-IR (B.I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 8th August, 2005

PRESENT : K. Jayaraman
Presiding Officer

INDUSTRIAL DISPUTE NO. 17/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN

The Vice President, : I Party/Claimant

State Bank Employees,

Union, Chennai.

AND

The Chief General Manager, : II Party/Management

State Bank of India, Chennai.

APPEARANCE:

For the Claimant : Mr. V. S. Ekambaram,
Authorised
Representative

For the Management : Mr. V. R. Gopalanathan,
Advocate

AWARD

The Central Government, Ministry of Labour vide order No. L-12011/11/2004-IR(B-I) dated 08-10-2004 has

referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the action of the management of State Bank of India in denying permission to the Vice President, State Bank Employees’ Union to act as defence representative for Shri P. Shankar in the disciplinary proceedings is justified or not? If not, to what relief he is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 17/2005 and notices were issued to both the parties and both the parties entered appearance through their authorised representative and advocate and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:—

This dispute is raised about the adverse ruling given by the Enquiry Officer regarding the person nominated by Sri P. Shankar, an employee of the Respondent/Management as his defence representative. Sri P. Shankar is now working as senior assistant in the Respondent/Bank. He was issued with charge sheet in July, 2003 for certain alleged misconduct. Even though he has submitted his explanation, not satisfying with his explanation; the Respondent/Management has ordered an enquiry and in that enquiry, Sri P. Shankar appointed one Mr. V.S. Balasubramaniyan, President of the Petitioner Union as his defence representative. Sri V.S. Balasubramaniyan is a retired employee of the Respondent/Bank. But the Enquiry Officer instructed the concerned employee namely Sri P. Shankar to bring a serving employee of the bank as his defence representative and adjourned the proceedings to a subsequent date. Further, a ruling to that effect was even though recorded by the Enquiry Officer in the enquiry proceeding, the concerned employee was not given a copy of enquiry proceedings held on 23-12-2003. Therefore, the Petitioner Union raised a dispute questioning the ruling of Enquiry Officer which is quite contrary to the relevant provisions of Bipartite Settlement. The Respondent Contended that as per the provisions of Bipartite Settlement representative of the workman has to be chosen from the workmen already engaged in the establishment of the Respondent/Bank and not an outsider. The Respondent/Bank further contended that Sri V. S. Balasubramaniyan is an outsider and an employee of the bank and has no locus standi to represent Sri P. Shankar in the enquiry proceedings. The relevant clause in the Bipartite Settlement is Clause 12(a) wherein it is mentioned that “..... He shall be permitted to be defended; (i) (x) by a representative of registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry (y) where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed. (ii) at the request of the said union by a representative of

the State Federation or All India Organisation to which such union is affiliated; or with the Bank's permission by a lawyer."

Provision with regard to defence in banking industry has been the same from the days of Hon'ble Justice Sen, Sastry and Desai who were the Presiding Officers of Tribunals constituted at various points of time from early fifties to resolve the disputes including disciplinary matters between the bank employees and the bankers in our country. Therefore, denying permission to person nominated by the charge sheeted employee to act as his defence representative is not only against relevant provisions of awards/settlements in this regard but also amounts to breach of settlement on the part of the Respondent/Bank. Therefore, the Petitioner Union prays an award may be passed to enable the charge sheeted employee Sri P. Shankar to have the benefit of services of defence representative Mr. V.S. Balasubramaniam, President of State Bank Employees Union nominated by him.

4. As against this, the Respondent in its Counter Statement contended that reference itself is not properly framed. There is no industrial dispute in this case nor there is any apprehension of dispute for taking cognisance of the dispute by this Tribunal. Further, the espousal by Petitioner Union is not valid in law. Further, there is or likely to be a wider implication on account of interpretation of terms of Bipartite Settlement governing the entire banking industry; the parties to the Bipartite Settlement should be present and without their being present, interpretation of terms may not be proper valid and justified. It is well established practice of the Respondent/Bank for a long time in respect of disciplinary proceedings is that the employee involved in such disciplinary proceedings is allowed to be represented by a representative of the trade union in which he is a member. The ruling given by the Enquiry Officer in this case regarding the person nominated by Sri P. Shankar as his defence representative is just, legal and in conformity with the practice obtained in the bank in disciplinary proceedings. It is false to allege that ruling of Enquiry Officer is quite contrary to the relevant to the provisions of Bipartite Settlement. The object of permitting representative of an office bearer of union being an employee of the organisation is that being an employee he is aware of rules, regulations, procedure, terms and conditions of organisation applicable to charge sheeted employee and an outsider cannot serve better in the manner of representation. Further, in disciplinary proceedings as per Section 44 of SBI Act which enjoins upon all employees to maintain secrecy. The usage of allowing only the serving employees to represent as defence representative is being followed in the respondent/Bank since decades and the same should not be disturbed. Even the Supreme Court and high Courts have held that under I.D. Act the representative of workmen have to be chosen only from the workmen

already engaged in establishment and not an outsider or ex-workmen of the establishment concerned. Hence, the Respondent prays that the claim may be dismissed with costs.

5. As against this, the Petitioner again filed a rejoinder in which the Petitioner reiterates that the ruling given by the Enquiry Officer is against the relevant provisions of Bipartite Settlement. Further, the Enquiry Officer has acted in utter violation of statutory provisions of Trade Union Act also. Sub-section 2 of Section 22 of Trade Union Act clearly says that an employee who has retired or has been retrenched shall not be construed as an outsider for the purpose of holding an office in a trade union. Under such circumstances, Sri V.S. Balasubramaniam cannot be treated as an outsider and therefore, the action for the Respondent/Management is illegal. The judgement relied on by the Respondent has no bearing to the issue referred in this adjudication. The representative in the present case was duly admitted as honorary member of the union and defending the charge sheeted employee in the enquiry. Hence, the Petitioner prays for an award in his favour.

6. Under these circumstances, the point to be decided in this case is—

- (i) "Whether the action of the Respondent/Management in denying permission to Vice President of the State Bank Employees Union as defence representative for the concerned employee in the disciplinary proceedings is justified or not?"
- (ii) "To what relief the concerned employee is entitled?"

7. The main point to be decided in this case is "Whether the concerned employee namely Sri P. Shankar is entitled to be represented by a person, even though an office bearer of the union in the disciplinary proceedings?"

8. On behalf of the Petitioner six documents were filed and on behalf of the Respondent three documents were filed. Both sides have not examined any witness. Out of the six documents Ex. W1 is the copy of letter dated 29-10-03 sent by Disciplinary Authority to concerned employee. Ex. W2 to W4 are the copies of letters dated 4-12-03, 15-12-03 and 24-12-03 from Enquiry Officer to concerned employee. Ex. W5 is the extract from Bipartite Settlement. Ex. W6 is the relevant extract from Indian Trade Union Act, 1926. On the side of the Respondent Ex. M1 is the copy of Section III of Sastry Award regarding procedure for taking disciplinary action. Ex. M2 is the copy of agreement between SBI and All India State Bank of India Staff Federation on service conditions dt. 31-3-67 and Ex. M3 is the copy of extract from memorandum of settlement dated 8-9-83 between managements of 58 banks and National confederation of bank employees.

9. The Respondent contended that as per the provisions of Bipartite Settlement representative of a workman who have been charge sheeted has to be chosen

from the workman already engaged in the establishment of the Respondent/Bank and not an outsider. According to the Respondent, Mr. V.S. Balasubramanian who has been nominated by the concerned employee is an outsider and not an employee of the bank and has no *locus standi* to represent the concerned employee in the enquiry proceedings.

10. Before going into the question, we have to see the provisions under Bipartite Settlement. Clause 12(a) says that the delinquent shall be permitted to be defended—(i)(x) by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry (y) where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed.

(ii) at the request of the said union by a representative of the State federation or All India Organisation to which such union is affiliated;

or

(iii) with the Bank's permission by a lawyer.

11. On behalf of the Respondent, it is contended that the ruling given by the Enquiry Officer that Sri V. S. Balasubramanian, even though who was an ex-employee of the Respondent/Bank and he has no *locus standi* to represent the concerned employee Sri P. Shankar is quite legal and it is inconformity with the practice obtained by the Respondent/Bank in disciplinary proceedings and it is not against the relevant provisions of Bipartite Settlement. It is argued on behalf of the Respondent that the object of permitting the office bearer of the union being an employee of the organisation is that being an employee, he is aware of the rules, regulations, procedure, terms and conditions of the organisation applicable to charge sheeted employee and an outsider cannot serve better in the manner of representation. It is the further argument of learned counsel for the Respondent that another reason for not permitting the outsider to represent the charge sheeted employee in disciplinary proceedings is that under Section 44 of SBI Act, which enjoins upon all employees to maintain secrecy and in case, if an employee is represented by an outsider, secrecy cannot be maintained by the bank, since they are not bound by declaration of fidelity and secrecy executed by the employees of the Petitioner. Further, an outsider should not know the details of the facts, transaction of accounts of customer or internal rules and regulations and therefore, the Respondent/Bank namely SBI followed for decades that the charge sheeted employee should alone be represented by an employee of the bank and not an outsider.

12. On the other hand, on behalf of the Petitioner it is argued that the Bipartite Settlement clearly states that by a representative of registered trade union of bank employee of which he is a member on the date first notified

for the commencement of the enquiry and it clearly states the eligibility of a person who can act as defence representative at the enquiry and it does not require any interpretation to understand the import and scope of the clause. The same provision was in vogue from Sastry Award, Desai Award and even prior to that. It is further contended by the Petitioner that Trade Union Act Section 22 states that 'proportion of office bearers to be connected with the industry. Section 22(2) says that.... Save as otherwise provided in sub-section (1) all office bearers of a registered union, except not more than one third of the total number of office bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected and an Explanation was given to sub-section, which says that for the purpose of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union. It is admitted that Sri V.S. Balasubramanian is the President of the Petitioner Union and therefore, under the Trade Union Act even though he has retired from State Bank of India service, he should not be considered as an outsider. In this case, though the Respondent contended that only an employee of the State Bank of India can be allowed to be represented to a charge sheeted employee in disciplinary proceedings and this procedure is followed for decades, it is not a true statement, because even Sri V.S. Balasubramanian had represented employees of State Bank of India in disciplinary proceedings in number of cases and this action of the Respondent/Bank against the concerned employee namely Sri P. Shankar was taken only on the ground that he has filed a Writ Petitioner against the Disciplinary Authority before the High Court and since stay order has been granted by the High Court against the Respondent/Management with regard to transfer of the concerned employee. Only because of this prejudice, the Enquiry Officer who was working under the Disciplinary Authority has passed this punitive order which against the provisions of Bipartite Settlement.

13. But again the learned counsel for the Respondent/Bank contended that there is nothing with regard to the Writ Petition filed by the concerned employee against the Disciplinary Authority. The Respondent/Bank has initiated disciplinary proceedings against the concerned employee Sri P. Shankar only after following the procedure prescribed under Bipartite Settlement. It is false to allege that disciplinary proceedings against the concerned employee was a sequel to the alleged refusal by the concerned employee to oblige the officials of Respondent/Bank and prejudice of Disciplinary Authority against him. Learned Counsel for the Respondent further relied on the decision reported in 1993 II SCC 115 Crescent Dyes and Chemicals Ltd. Vs. Ram Naresh Tripathi; 1999 1 SCC 626 Bharat Petroleum Corporation Ltd. Vs. Maharashtra General Kamgar Union and others and 1996 II LLJ 94 State Bank of

India Staff Association and another *V/s.* State Bank of India and others. In the first judgement, when the question arise whether the delinquent employee is entitled to be represented by an office bearer of other trade union, who is not a member of either recognised union or non-recognised union functioning within the undertaking in which delinquent is employed, the Supreme Court has held that "the delinquent's right of representation was regulated by standing orders which permitted a clerk or a workman working with him in the same department to represent him and this right stood expanded in Sections 21 and 22(ii) permitting representation through an officer, staff member or a member of the union on being authorised by State Govt. the object and purpose of such provisions are to ensure that the domestic enquiry is completed with despatch and is not prolonged endlessly and secondly, when the person defending the delinquent is from the department or establishment in which the delinquent is working he will be well conversant with the working of that department and the relevant rules and would, therefore be able to render satisfactory service to the delinquent; thirdly, not only would the entire proceedings be completed quickly but also inexpensively."

14. But, I find it is distinguishable in this case, because the Respondent has not shown before me that the right of representation was regulated by any standing orders or any Bipartite Settlement. The Bipartite Settlement has clearly stated that delinquent be permitted to be represented by a representative of a registered trade union of the bank employees of which he is a member on the date first notified for the commencement of the enquiry. In this case, it is not in dispute that the representative namely Mr. V.S. Balasubramaniyan is the representative of the registered trade union of bank employees/Petitioner union. Under such circumstances, I find this judgement of the Supreme Court is not applicable to the facts of this case.

15. In the second case, wherein draft standing orders of the BPCL certified by the Appellate Authority provided that in a departmental enquiry the delinquent workman would be permitted to be defended by a fellow workman of his choice, who must be an employee of the corporation, while the model standing orders on the ground framed by Central Government permitted representation of the delinquent workman by an office bearer of a trade union of which he was a member, the Supreme Court has held "an employee has no right to representation in departmental proceedings by another person or a lawyer unless the service rules specifically provide for the same". It further held that "the only embargo that the representative should be an employee of the parent establishment. There appears to be some logic behind this as a co-employee would be fully aware of the conditions prevailing in parent establishment, its service rules, including the standing orders and would be in a better position than an outsider to assist the delinquent in domestic proceedings for a fair and early disposal" and therefore, it upheld the draft

standing orders submitted by the appellant corporation and certified by the Appellate Authority.

16. But, I find this case also is distinguishable in the facts of this case because as I have already stated the Respondent/Bank has not produced any standing orders which prohibits the representative who is not an employee of the Respondent/Bank.

17. In the third judgement cited above, wherein under Trade Union Act Sections 6(e) and 22, the Supreme Court has held that "serving employees alone could represent the federation or circle union/association as per the accepted policy of the bank since decades and since the appellant had ceased to be an ordinary member on his retirement and since he was not elected as honorary member, as contemplated under Rule-6 he neither remained an ordinary member of the association and therefore, he cannot claim a right to negotiate with the management as a representative of the union."

18. But, I find this judgement is also not applicable to the facts of this case because, the representative namely Mr. V.S. Balasubramaniyan has admitted that he is a honorary member of the Petitioner Union. In this case, he is not going to represent the union for negotiation with the management. He only represents the concerned employee in a departmental enquiry and therefore, the rulings relied on by the counsel for the respondent is not applicable to the facts of this case. I find, in this case the representative namely Mr. V.S. Balasubramaniyan is admittedly an office bearer of the Petitioner Union and the argument of learned counsel for Respondent that all along the SBI has permitted only an employee of the bank to be a representative of the charge sheeted employee in domestic enquiry is not proved with any evidence. Further, under Bipartite Settlement there is no bar for an office bearer, who is not an employee of the bank should not represent the charge sheeted employee in a domestic enquiry and under such circumstances, I find there is no substance in the contention of the learned counsel for the Respondent.

19. Then the learned counsel for the Respondent contended that reference itself is not properly framed and the proper reference should be 'whether or not the right of an employee to be defended by a representative of a registered trade union will include ex-employee/outsider?' But, I find there is no point in the contention of the learned counsel for the Respondent with regard to the reference sent by the Ministry. Then again, learned counsel for the Respondent contended that as such there is no industrial dispute nor there is any apprehension of dispute for taking cognisance of the dispute by this Tribunal. Here again, I find there is no point in the contention of the learned counsel for the Respondent. Thirdly, learned counsel for the Respondent contended that espousal by the Petitioner union is not valid in law and it was not established before this Tribunal that the union was permitted to espouse the cause of concerned employee in this case. But, the

Respondent has not raised this plea before the conciliating authority. Under such circumstances, I find the contention of the learned counsel for the Respondent is not valid.

20. Therefore, I find the action of the Respondent/Management in denying permission to Sri V.S. Balasubramanian to act as defence representative for the concerned employee Sri P. Shankar in the disciplinary proceedings is not justified.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

21. In view of my foregoing findings, I find the concerned employee Sri P. Shankar is entitled to be defended by Sri V. S. Balasubramanian as defence representative in the disciplinary proceedings. No Costs.

22. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th August, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Marked :

For the I Party/Claimant :

Ex.No.	Date	Description
W1	29-10-03	Xerox copy of the letter from Disciplinary Authority to Concerned employee.
W2	04-12-03	Xerox copy of the letter from Enquiry Officer to concerned employee.
W3	15-12-03	Xerox copy of the letter from Enquiry Officer to Concerned employee.
W4	24-12-03	Xerox copy of the letter from Enquiry Officer to Concerned employee
W5	Nil	Nil Relevant extracts from Bipartite Settlement dtd. 10-4-02.
W6	Nil	Relevant extracts from Indian trade union Act.

for the II Party/Management :—

Ex.No.	Date	Description
M1	05-05-53	Extract from Sastry Award Section III procedure for taking disciplinary action.
M2	31-03-67	Eerox copy of the para 7.43 of agreement between State Bank of India and State Bank of India Federation on service conditions.

M3 08-09-83 Xerox copy of the para 4 of memorandum of settlement dated 8-9-1983.

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4230.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सादर रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायसल्य, चेन्नई के पंचाट (संदर्भ संख्या आई डी-395/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/10/2005 को प्राप्त हुआ था।

[सं. एल-41012/39/2004-आई आर (बी. 1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. No. 395/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workmen, which was received by the Central Government on 17/10/2005.

[No. L-41012/39/2004-IR (B.1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Friday, the 12th August, 2005

PRESENT : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 395/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), between the Management of Southern Railway and their workmen)

BETWEEN

The Branch Secretary, : I Party/Claimant
Dhakshina Railway Employees
Union (CITU)
Tuticorin.

AND

The Management, : IIParty/Management
Personal Branch, Mechanical
Department, Divisional
Office, Southren Railway,
Madurai

APPEARANCES:

For the Claimant	: M/s. D. Geethaa, Raja Shrinivas, Advocates
For the Management	: M/s. Arulmudi & P. Srinivasan, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-41012/39//2004 IR (B-I) dated 23-07-2004 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is:—

“Whether the imposition of the punishment of reduction of pay by three stages for a period of 36 months without cumulative effect against Sri S. Tensingh by the management of Southern Railway, Madurai is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 395/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:—

The Petitioner Union espouses the cause of its member Sri S. Tensingh who was initially engaged as substitute C & W Khalasi on 18-2-79 and he was promoted as C & W Khalasi. Helper. On 8-6-99 while he was working as C & W Khalasi under the control of Senior Section Engineer C & W/O/Tuticorin, he reported for duty at 8.30 a.m. even though he was suffered from severe fever, but after an hour, his condition deteriorated and he was not able to do any work. When he approached the senior officers and requested permission to take leave, he was not granted any leave and he was compelled to do intensive cleaning of coaches of train No. 6703/6704. Thereafter, the concerned employee requested a sick memo, but he was not given sick memo until 11.30 a.m. Then he gave a leave letter seeking four days leave and underwent treatment in railway hospital for four days. He reported for duty on 12-6-99 and he was issued with charge memo dated 17-6-99 by the Assistant Mechanical Engineer, Madurai that he acted in an indisciplined manner with his superior officer and he also violated Rule 3(1) (ii) & (iii) of Railway Servants conduct Rules, 1966. The charge memo was issued in English. Even though he asked for charge memo in regional language the Respondent/Management refused to give charge memo in Regional language. Subsequently, the concerned workman submitted his explanation on 5-10-99. But, the Disciplinary Authority refused to accept the concerned employee's explanation and imposed the penalty of reduction of pay by three stages for a period of 36 months without cumulative effect from 21-11-2000. But, without conducting any enquiry on the alleged charges, even though the enquiry is not necessary to impose minor penalty, the Disciplinary Authority ought to have followed

the procedure laid down under Section 11 of Railway Servant Rules, before concluding that the workman behaved in an indisciplined manner and therefore, he has not followed the principles of natural justice. Even the Appellate Authority has not considered this and confirmed the penalty imposed by the Disciplinary Authority. But, the Appellate Authority has relied on the statements of Mr. Kombiah and C. Venkatesan without giving any opportunity to concerned employee to cross examine them. Therefore, the failure to give charge sheet in regional language and failure to conduct detailed enquiry and without giving any finding on the charges are against the provisions of rules and therefore, the order passed by the Disciplinary Authority is vitiated. Hence, for all these reasons, the Petitioner Union prays an award may be passed in favour of the concerned employee.

4. But, as against this, the Respondent in its Counter Statement contended that the Petitioner has given only one side picture to this Tribunal conveniently suppressing various facts related to this case. Cleaning of coach exterior is one of the routine activities undertaken by Carriage & Wagon Department of Railway. The Senior Section Engineer C & W entrusted the work of intensive cleaning of coach exterior of Train No. 6703/6704 on 8-6-99 to the gang comprising the concerned employee and another two Khalasi helpers and the gang was also supplied with necessary cleaning compound used by staff for this specific purpose. However, the concerned employee along with other two Khalasi helpers refused to carry out this work on the plea that they would carry out the work only if goggles and gloves were supplied to them. Even though the Senior Section Engineer has counselled them to do the work, the gang workmen have not carried out the work till 11.00 hours and finally reported sick and left the work spot. This irresponsible act of the concerned employee resulted in despatch of Train No. 6703/6704 express on 8-6-99 with shabby exterior look and the concerned employee tried to justify his irresponsible act under the false pretext of severe fever. It is only after the Senior Section Engineer entrusted the work to the gang, the concerned employee has raised the non-issue and refused to carry out the instructions of his superiors. Therefore, chargesheet, was issued to him. But after receiving the chargesheet the concerned employee has sent a letter stating that he was not able to understand the charges, since it was written in English and requested for Tamil version of the same. Again, the Respondent/Management through their official sent a letter that as per Railway Board's letter supply of statement of allegations in regional language is not permissible under existing rules and subsequently, the Petitioner has submitted his explanation and after a careful examination of reply submitted by the concerned employee, the management imposed the punishment of penalty of reduction by three stages from the pay of Rs. 3300 in the scale of pay o Rs. 2650—4000 to Rs. 3105 for a period of 36 months without cumulative effect w. e. f. 21-1-2000 with an elaborate speaking order. Not satisfying with the order, the concerned employee preferred an appeal and the Appellate

Authority after considering the representation has confirmed the penalty imposed by the Disciplinary Authority. The concerned employee has shown disrespect to the instruction given by his superiors and exhibited total insubordination which cannot be allowed to enter Govt. machinery especially in huge organisation like Railways. The management has acted only according to the instructions available in the matter and hence, it involves no violation of principles of natural justice. Under sub Rule 2 of Rule 11 of Railway Servants (Discipline & Appeal) Rules, 1968, it is mandatory to hold enquiry only in case if it is proposed, after considering the representation, if any, made by railway servant to withhold the increment of pay and such withholding is likely to affect adversely, the amount of pension or special contribution to provident fund payable to the railway servant or to withhold increments of pay for a period exceeding three month or to without increments of pay with cumulative effect for any period. In this case, the concerned employee is governed by Pension Rules. Further, the concerned employee is awarded with reduction of pay by three stages for a period of 36 months without cumulative effect, which is a minor penalty under Rule 6(iii)b of Railway Servants (Discipline & Appeal) Rules, 1968 and the penalty will not affect his pension in any case. Therefore, holding enquiry is not mandatory in this case, in view of the fact that only minor punishment has been imposed on him. The concerned employee's allegations regarding his sickness is only an after thought and it does not hold water in view of the fact that he signed the must on 8-6-99 and he purposely reported sick without really being sick. Therefore, the concerned employee's refusal to carry out the work assigned to him by his superior clearly proves his indiscipline attitude and the same is enough to conclude his guilt. The concerned employee is under wrong impression the statements were specially recorded from the other two Khalasi Helpers who were part of the gang and their copies of statements have not been given to the concerned employee. But, in fact, the other two employees were also issued with charge Memo for disobeying the orders of their superior and the have stated in their reply that the third man of the gang namely the concerned employee did not turn up for work due to which they were not able to carry out the work. It clearly proves that the concerned employee failed to carry out the instruction of his superior. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Under these circumstances, the points for my consideration are:—

- (i) "Whether the imposition of punishment of reduction of pay by three stages for a period of 36 months without cumulative effect against the concerned employee Sri S. Tensingh by the Respondent/Management is legal and justified?"
- (ii) "To what relief the concerned employee is entitled?"

Point No. 1:

6. In this case, it is admitted that he concerned employee Sri Tensingh was initially engaged as substitute C & WKhalasi and he has been promoted as C & WKhalasi Helper. The charge framed against the concerned employee is that on 8-6-1999 during the working hours, the concerned employee was asked to do intensive cleaning of exterior coach with cleaning compound supplied by the Senior Section Engineer, C & W, but he has refused to do the allotted work, even after his superior repeatedly counselled him to do the job and thus, he failed to do the work till 11.00 hrs and later reported sick and due to this the said train was dispatched in a shabby condition and therefore, he has acted in a highly indisciplined manner with his superiors and violated the rule 3(1)(i) & (ii) of Railway Servants Conduct Rules. For this, it is admitted that the concerned employee has given his explanation at the first instance that he has not understood the charges and the charges should be given in regional language namely Tamil. Subsequently, the Respondent/Management has informed him that statement of allegations will be supplied only either in Hindi or English and supply of the same in regional language is not permissible under rule and thereafter, the concerned employee has given explanation and not satisfied with his explanation, the Disciplinary Authority imposed the minor punishment and against the said minor punishment, even though he has preferred and appeal, it was rejected and the Appellate Authority has confirmed the punishment imposed by the Disciplinary Authority. Therefore, the Petitioner Union has raised this industrial dispute.

7. In this case, in order to substantiate his claim the concerned employee was examined himself as WW1 and produced seven documents on his side, which were marked as Ex. W1 to W7. On the side of the Respondent/Management, the Assistant Personnel Officer of the Respondent/Management at Madurai Division was examined as MW1 and on the side of the Respondent Ex. M1 to M8 were marked. Ex. W1 is the copy of chargesheet issued to concerned employee. Ex. W2 is the copy of letter sent by Respondent/Management for not giving the chargesheet in Tamil. Ex. W3 is the copy of explanation given by the concerned employee. Ex. W4 is the penalty order issued by the Respondent. Ex. W5 is the copy of appeal preferred by concerned employee against the penalty order. Ex. W6 is the copy of order passed by Appellate Authority. Ex. W7 is the copy of penalty order issued to co-employee namely Mr. V. Kombiah. On the side of the Respondent copy of the attendance register is marked as Ex. M1, copy of the letter given by supervisory official to Senior Divisional Mechanical Engineer as Ex. M2. Copy of the explanations submitted by Sri V. Kombiah and Venkatesan are marked as Ex. M3 and M4. Copy of the explanation submitted by concerned employee to chargesheet is marked as Ex. M5. M6 and M7 are copy of penalty advice and disposal of appeal preferred by the concerned employee. M8 is the copy of service register.

employee. M8 is the copy of service register.

8. Learned counsel for the Petitioner contended that the Disciplinary Authority has imposed the penalty without conducting any enquiry on the alleged charges, though there is no finding on the alleged charges. Even according to the rules, though the enquiry is not necessary, to impose minor penalty, the Disciplinary Authority ought to have followed the procedure laid down under section 11 of Railway Servants Rules before concluding that the workman behaved in an indisciplined manner. Therefore, without any enquiry, the decision of the Railway management is opposed to principles of natural justice. Further, the request for the concerned employee to give charge sheet in regional language is also negatived without any me or reason. As such, there is no finding in the impugned order by the Disciplinary Authority on the charges framed against the concerned employee. Since there is no enquiry and since there is no conclusion, the finding on the charges is not valid in law and therefore, the imposition of penalty amounts to violation of principles of natural justice. Further, the concerned employee has alleged that only due to sickness on that particular date, he has not attended the work but it was not considered by the Disciplinary Authority. Though he was undergone treatment in Railway hospital at Madurai, though he has applied for leave for four days which was also given to him, the Disciplinary Authority has not considered that the Petitioner was sick on that particular day and only because of that he has not done the work. On the other hand, he has come to a conclusion that it is only an afterthought. Therefore, in the absence of any proof to show that the concerned employee behaved in an indisciplined manner, the conclusion of the Disciplinary Authority is arbitrary and against the principles of natural justice. Not only that while deciding the appeal, the Appellate Authority has relied on the statements of co-employees, when they have not been examined before the enquiry and when they have not been cross examined by the concerned employee. Under such circumstances, the Appellate Authority exceeded his limits and also relied on the statements of those employees, when the Disciplinary Authority himself has not mentioned anything about the said statements, which were behind the back of the concerned employee and therefore, the order passed by the Disciplinary Authority is not valid in law. Further, learned counsel for the Petitioner relied on the rulings reported in 1987 (3) Administrative Tribunals Cases 927 Ram Pravesh Mahalo Vs. Union of India and Others wherein the Administrative Tribunal has held that "in absence of reasons being recorded to show that holding of enquiry was not necessary, it was held, mandatory provisions of Rule 16(1)(b) was violated." He further relied on the rulings reported in 2001 9 SCC 180 O.K. Bhardwaj Vs. Union of India and Others wherein the Supreme Court has held that "if the charges are factual and if they are denied by the delinquent employee an enquiry should also be called for. This is the minimum requirement of principles of natural justice and the said requirement cannot be dispensed with."

9. But, as against this, learned counsel for the Respondent contended that on that date one Khalasi and two Khalasi Helpers namely three persons were deputed to work and all the three persons have refused to carry out the work on the plea that they would carry out the work only if goggles and gloves were supplied to them and the concerned employee has not at all cared to carry out the work till 11.00 hrs. on 8-6-99 and finally reported sick and left the work spot. While the fact being so, the concerned employee has tried to justify his irresponsible act under false pretext of severe fever. The concerned employee has signed the muster and reported for duty. Had he been really sick, there was no necessity for him to sign the muster and come to work spot and he could have straightaway asked for sick memo and reported himself to Railway Medical Authority without signing the muster. Further, in the claim statement he alleged that even in the morning itself, he was suffering from fever and he attended the duty but he has not stated any reason for attending the duty while he was suffering from fever. Therefore, the allegation of severe fever is only an afterthought and this was considered by the Disciplinary Authority in a elaborate discussion. Further, after the receipt of charge sheet the concerned employee has sent a letter stating that the charge sheet must be in regional language i.e. Tamil. Only after he was informed that supply of allegation in regional language is not permissible under the existing rules, he has given the reply. But even in explanation, he has not stated anywhere that he has not disobeyed the orders of his superiors, on the other hand, he has accused the superior officers that he has not issued sick memo till 11.00 am. Under sub-rule 2 of Rule 11 of Railways Servants (Discipline & Appeal) Rules, 1968, it is mandatory to hold enquiry only in a case, if it is proposed after considering the representation, if any made by railway servant to withhold increments of pay and such withholding increment is likely to affect adversely the amount of pension or special contribution to provident fund payable to railway servant or to withhold increments of pay for a period exceeding three months or to withhold increments of pay with cumulative effect for any period, only in such cases, enquiry must be held. In the instant case, the concerned employee is even though governed by pension rules, the penalty awarded in this case is reduction of pay by three stages for a period of 36 months without cumulative effect which is a minor penalty under Rule 6(iii) b of Railway Servants (Discipline & Appeal) Rules, 1968 and the penalty will not affect his pension in any manner. Therefore, holding an enquiry is not mandatory in this case, since only minor punishment has been imposed on him. Though the learned counsel for the Petitioner relied on the rulings of Central Administrative Tribunal and Supreme Court, they are not applicable to the facts of this case. When there is specific provision in the Railways Servants (Discipline & Appeal) Rules, the Petitioner cannot take advantage of the general rules. Further, though the learned counsel for the Petitioner contended that Appellate Authority while disposing of the appeal has considered certain facts which are not relevant and when there were no copies of statements given to the concerned employee, he was relied on the statements

given by co-employees is not valid, he has not relied on the statements of co-employees, but he has stated that the reason given by the Disciplinary Authority is valid because, even the co-employee have stated in their explanation that the concerned employee has left the place of work and only because of that they have not done the work. Under such circumstances, it cannot be said that there is any violation of principles of natural justice in this case. Though the Petitioner has stated in proof of affidavit that he was sick and he has not done the work, he has not given any reason for disobeying the order of his superiors. Therefore, it is clearly established that the concerned employee has disobeyed the order of his superiors and for this indisciplined attitude he was punished. Thus, the disrespect exhibited by the concerned employee to the instructions given by his superior is totally insubordination which cannot be allowed to enter Govt. machinery especially in a huge organization like Railways and therefore, this Tribunal need not interfere with the punishment imposed by the Respondent/Management. In this case, the entire proceedings have been conducted as per provisions of Railway Servants (Discipline & Appeal) Rules, 1968. Therefore, the allegation of violation of principles of natural justice does not hold any water and therefore, the order of Disciplinary Authority and Appellate Authority are in order and just in every respects. Hence, the Respondent prays that the claim of the Petitioner is to be dismissed.

10. I find much force in the contention of the learned counsel for the Respondent. The Respondent has established that holding an enquiry is not mandatory in this case, in view of the fact that minor punishment has been imposed on the concerned employee. From the records produced by the Respondent/Management, it is clear that the allegation of sickness is only an afterthought and therefore, I find there is no substance in the contention of the Petitioner. Further, I am of the opinion that the concerned employee is under wrong impression that the statements of co-employees were recorded from the other two Khalasi Helpers who were part of the gang and entrusted with the work on 8-6-99. But, it is clear from the records produced by the Respondent that two employees who were issued with charge memo for disobeying the orders of superiors have stated in their explanation/reply that the third man of the gang namely the concerned employee in this dispute did not turn up for work due to which they were not able to carry out the work and the Appellate Authority relying on these circumstances had come to a conclusion that concerned employee failed to carry out the instructions of his superiors and therefore, in no case, it can be said that there was violation of principles of natural justice. Under such circumstances, I find this point against the concerned employee.

Point No. 2:

The next point to be decided in this case is to what relief the concerned employees is entitled?

11. In view of my foregoing findings, I find the concerned employee is not entitled to any relief as prayed for by the Petitioner Union. No Costs.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 12th August, 2005).

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party/Claimant : WW1 Sri S. Tensingh

For the II Party/Management : MW1 Sri Joseph
Jesudoss Dennis

Documents Marked:—

For the I party/Claimant:

Ex. No.	Date	Description
W1	17-06-99	Xerox copy of the charge sheet issued to Petitioner.
W2	31-08-99	Xerox copy of the letter from Respondent refusing to give charge sheet in Tamil.
W3	05-10-99	Xerox copy of the explanation given by concerned Employee.
W4	12-01-00	Xerox copy of the penalty order issued by Respondent.
W5	27-02-00	Xerox copy of the appeal preferred by concerned employee.
W6	05-01-01	Xerox copy of the order of Appellate Authority.
W7	12-01-00	Xerox copy of the penalty order issued to co-employee for the same charges.

For the II Party/Management:—

Ex. No.	Date	Description
M1	Nil	Xerox copy of the attendance register
M2	08-06-99	Xerox copy of the letter given by supervisory official to Senior Divisional Mechanical Engineer.
M3	09-07-99	Xerox copy of the explanation submitted by Mr. V. Kombiah.
M4	09-07-99	Xerox copy of the explanation submitted by Mr. Venkatesan
M5	05-10-99	Xerox copy of the explanation submitted by concerned employee to charge sheet.
M6	10-12-99	Xerox copy of the penalty advice issued to concerned employee.
M7	05-01-01	Xerox copy of the order of Appellate Authority.
M8	Nil	Xerox copy of the service register of concerned employee.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-12/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/183/2004-आई आर(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 12/2005) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/183/2004-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

PRESENT : Monday, the 22nd August, 2005

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 12/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN:

Sri S. Raja : I Party/Petitioner

AND

The Chief General Manager,
State Bank of India,
Chennai : II Party/Management

APPEARANCES:

For the Petitioner : Mr. W.T. Prabhakar,
Advocate

For the Management : Mr. V.R. Gopalarathinam,
Advocate

AWARD

The Central Government, Ministry of Labour vide order No. L-12012/183/2004-IR-(B-I) dated 28th December,

2004 has referred this industrial dispute to this Tribunal for Adjudication. The Schedule mentioned in that order is—

SCHEDULE

“Whether the action of the management of State Bank of India in terminating the services of Shri S. Raja with effect from 15-4-2004 is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D.No. 12/2005 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was working in the Respondent/Bank as a sweeper cum gardener at the Guindy branch from February, 1996 to 15-4-2004 continuously without any break in service. Apart from sweeping and gardening work, the Petitioner was engaged as a general attendant and was also engaged in canteen work and for carrying water etc. The nature of work done by the Petitioner is perennial in nature and he had put in continuous service without any break. Thus, he has completed 480 days of continuous service in a block of 24 calendar months and also put in 240 days of continuous service in a block of 12 calendar months preceding the date of his illegal termination. The Petitioner was paid consolidated salary of Rs.1850 per month which was credited in his bank account. The additional wages paid for cleaning and other work through petty cash voucher. The bank instead of conferring the Petitioner with permanent status, adopted unfair labour practice by reducing the salary of Petitioner from Rs. 1850 to Rs. 1200 Aggrieved by this, the Petitioner caused a lawyer's notice 9-3-2004 and also filed a petition on 8-4-2004 with regard to his permanency before Inspector of Labour, Nandanam. At this stage, with a victimising attitude the Respondent/Bank orally terminated the services of the Petitioner w.e.f. 15-4-2004 which is highly arbitrary and unjustifiable. M/s Geetha Farm and nursing had no genuine contract with the Respondent/Bank and the so called contract itself is only sham and nominal. Further, the Petitioner had no direct relationship with the so called contractor. The Respondent/Bank supervised the Petitioner's work and not the contractor. The Respondent/Bank using the Petitioner's innocence had directed the Petitioner to misrepresent his name as Munuswamy in signing the vouchers for getting his wages which by itself is an unfair labour practice. The Petitioner was also engaged by the bank for all the seven days in a week and he used to come to bank daily at 6.00 am in the morning and leave the bank only at 5.30 p.m. Since the bank violated the provisions of Section 25F of the Act, the termination has become null and void. Therefore, the Petitioner prays to declare the termination of the Petitioner as illegal and direct the Respondent to reinstate the Petitioner into

service with back wages and other attendant benefits with continuity of service.

4. The Respondent in its Counter Statement contended that there is no relationship of employer employee between the Respondent/Bank and the Petitioner. It is false to allege that the Petitioner was working as sweeper cum gardener in the Respondent/Bank at Guindy branch continuously as alleged by him. M/s. Geetha Farm & Nursing was engaged as a contractor from 1996 to December, 1999 for maintaining the plants available within the compound of premises and for supplying flowerpots. The maintenance of plants and supply of flower pots had no connection with the main business of the bank. The said contractor was paid for maintenance a sum of Rs. 1400 per month and thereafter the Petitioner was engaged from 2000 to March, 2003 as a contractor for the above said purpose and a sum of Rs. 1400 was paid to him for carrying out the contractual work. The contractor was also asked to clean the garden to keep it tidy and for which a sum of Rs. 450 per month was paid. Further Mr. Munusamy was engaged from April, 2003 as a contractor for maintenance and cleaning the garden. The Respondent/Bank has no control over the manner in which the contractual job was required to be performed by the contractor or persons engaged by the contractor. No attendance register was maintained for the contractor or for persons engaged by him nor there was any stipulation for working hours. It is also false to allege that contractual job is perennial in nature. Therefore, the petitioner was engaged as independent contractor for the period during which he was engaged. Again, from December, 2003 after discontinuance of contract with Sri Munusamy, the Petitioner was entrusted with the contract. As the garden was by then reduced in size, the petitioner was offered Rs. 1200 per month for contractual work which the Petitioner accepted. Subsequently, the Respondent discontinued the contract with the Petitioner w.e.f. 15-4-2004. It is not true to say that the Petitioner has completed 480 days of continuous service in a block of 24 calendar months or he had put in 240 days of continuous service in a block of 12 calendar months. It is also not correct to say that his pay was consolidated salary of Rs. 1850 per month. In a few emergent occasions, when the permanent employee in messengerial cadre was absent and the Petitioner was available, he was requested to perform limited task and for which the Petitioner was paid cash of Rs. 50 or Rs. 100 as the case may be depending upon the nature of work. The petitioner is not entitled to regularisation or any permanent status as alleged by him. The Respondent/Bank has got recruitment rules and filling up the post by in other mode amounts to back door entry which is not permissible. Further, the Petitioner was over aged and he could not be eligible for consideration in Respondent/Bank's permanent employment. Discontinuance of the Petitioner in casual work cannot be construed to be retrenchment. Hence, for all these reasons,

the Respondent prays that the claim may be dismissed with costs.

5. Under these circumstances, the points for my consideration are—

(i) "Whether the action of the management of State Bank of India in terminating the services of the Petitioner w.e.f. 15-4-2004 is justified?"

(ii) "To what relief the petitioner is entitled?"

Point No. 1:

6. The case of the Petitioner is that he was working in the Respondent /Bank in Guindy branch as sweeper cum gardener from February, 1996 to 15-4-2004 continuously without any break in service and his further contention is that apart from sweeping and gardening work, he was engaged as general attendant and also engaged in canteen work and for carrying water etc. The petitioner examined himself as WW1 and produced documents Ex. W1 to W9. Ex. W1 and W2 are copy of passbook and copy of vouchers for payment of money. Ex. W3 is the copy of notice issued to Respondent by the Petitioner's advocate on 9-3-2004. EX. W4 is the copy of petition filed before the Inspector of Labour, Nandanam, Chennai dated 7-4-2004. Ex. W5 is the copy of advocate's notice sent by the petitioner's advocate to Respondent on 16-4-2004. Ex. W6 is the copy of 2A petition filed before Regional Labour Commissioner (Central) Ex. W7 is the copy of reply given by Respondent before Regional Labour Commissioner (Central). Ex. W8 is the copy of reply filed by the Petitioner before Regional Labour Commissioner (Central). Ex. W9 is the copy of reply sent by Respondent/ Management to Petitioner's advocate.

7. On behalf of the Petitioner it is contended that the Petitioner has completed 480 days of continuous service in the block of 24 calendar months and has put in 240 days continuous service in a block of 12 calendar months preceding the date of his illegal termination and therefore, he is entitled to the benefits of I.D Act and also under conferment of permanent workman status Act.

8. As against this, the Respondent contended that the Petitioner was engaged as contractor for the purpose of maintaining and cleaning the garden and he was an independent contractor and before him, the Respondent engaged on M/s. Geetha Farm & Nursery as a contractor from the year 1996. The Petitioner worked under the said contractor and the Respondent paid him Rs. 1400 for maintaining the garden and Rs. 450 for cleaning the garden. It is further contention of the Respondent that there is no permanent post of gardener cum sweeper in the Respondent/Bank branch. No doubt, the Petitioner on few occasions when the permanent sub-staff was absent and when he was available at the branch he was requested to perform the limited task and for which the Petitioner received Rs. 50 or Rs. 100 as the case may be depending upon the work he was required to perform and this work

performed by him was casual in nature. After the Petitioner left the contractor, one Mr. Munusamy was appointed to do the gardening work and again during December, 2003 when Mr. Munusamy left the work, the Petitioner was asked to perform the contractual work of maintenance and cleaning the garden. Subsequently, on account of splitting of branches and reduction of area of garden in the premises, the contractual amount for maintenance of garden was reduced to Rs. 1200/- and subsequently, when the garden was no longer required for the branch, the contract was discontinued from 15-4-2004. Therefore, there was no relationship of employer and employee between the Respondent/Bank and the Petitioner. Even though the Petitioner was engaged on certain occasions, he was engaged only as temporary employee on casual basis. It is false to allege that he has worked for more than 480 days continuously in 24 calendar months and 240 days continuously in a block of 12 calendar months. On behalf of the Respondent one Mr. B. Srinivasan now working as a Manager in the Respondent/Bank branch at Guindy was examined and through him 22 documents were marked as Ex.M1 to M22. M1 to M4 are copy of cash bill for M/s. Geetha Farm & Nursery for maintenance charges wherein the present Petitioner has signed on behalf of Geetha Farm & Nursery. Ex.M5 to M11 are the copies of cash bill for the Petitioner for maintenance of garden and also for cleaning charges in the name of Mr.Raja, Gardening & Nursery Contractor in which also the Petitioner has signed for the contractor Mr.S.Raja, Ex.M12 to M14 are copies of cash bill for M/s. Geetha Farm & Nursery for the year 1996. Ex.M15 to M20 are copies of bills in the names of R. Munusamy and M. Munusamy for maintenance of garden and cleaning of garden. Ex.M21 and M22 are copies of circulars for recruitment of subordinate staff in the Respondent/Bank and also terms and conditions of service of temporary employees.

9. Learned counsel for the Petitioner contended that though the Respondent alleged that there was a contract between M/s. Geetha Farm & Nursery, it is only a sham and nominal contract. Actually, the Petitioner was worked as a gardener Cum sweeper in the Respondent/Bank. The Petitioner was not a contractor at any point of time and only monthly wages was disbursed by the bank and it was the Respondent/Bank who supervised the work of the Petitioner. Since the Petitioner was not properly educated and since he being an illiterate, he was forced to misrepresent him as a contractor in the vouchers prepared by the staff of the Respondent/Bank and further on certain occasions, he was forced to misrepresent his name as Munusamy in signing the vouchers for getting his wages which by itself is an unfair labour practice. Further, it is clear even from the vouchers, wherein it is mentioned as R. Munusamy and M. Munusamy and further the address of the said person was mentioned as No.8, Ayyappan Thangal and in certain bills it is mentioned as No.8, Ayyappan Nagar and from these things it is clear that the

petitioner was made to sign as R.Munusamy and M.Munusamy on the compulsion of the Respondent/Management. The petitioner was working as gardener Cum sweeper from the year 1996 and when he requested the Respondent/Bank to regularise his services, the Respondent/Bank not only reduced the wages to Rs. 1200/- but also terminated his services without any reason and without giving any notice of termination. It is further contention of the petitioner that he was engaged by the Respondent/Bank at Guindy branch in all the seven days and he used to come to the branch at 6.00 am. and leave the branch at 5.30 pm. and he also discharging the work of regular sweeper, but his wages was for less than the permanent sweeper.

10. But, as against this, learned counsel for the Respondent/Management contended that the Petitioner was engaged only as a contractor for the purpose of maintaining and cleaning of the garden. No doubt, he was engaged on need basis for certain days when the permanent sub-staff was on leave. But on that account, the Petitioner cannot claim that he is entitled to the benefits under the provisions of I.D.Act. When the Petitioner left the contractual work, one Mr. Munusamy was appointed and only on the recommendation of the Petitioner, the said Munusamy was engaged and therefore, it cannot be said that the Petitioner was in continuous service of the Respondent/Bank from the year 1996. It is also clear from Ex.M1 to M12 that the Petitioner himself has received the contractual amount for maintenance of garden for M/s. Geetha Farm & Nursery even in the year 1997-98. Under such circumstances, it cannot be said that the Petitioner was engaged by the Respondent/Bank from the year 1996 onwards. Only after 1998, the Petitioner was engaged as a contractor for maintenance of garden and also for cleaning of garden. No, doubt there is some discrepancy in vouchers as R.Munusamy or M.Munusamy, but only at the instigation of the Petitioner, it was prepared as such and therefore, it cannot be said that Munusamy is an Avatars made by the Petitioner himself. It is the further contention of the Respondent that there is a prescribed procedure in the Respondent/Bank for permanent appointment. The documents marked as Ex.M21 and Ex.M22 would establish this fact. Ex.M21 is the norms for appointment of temporary staff and Ex. M22 is the guidelines for appointment of temporary staff in the Respondent/Bank. Further, the Petitioner was neither eligible for appointment as sub-staff when he was offered for contract nor he is presently eligible for consideration for permanent appointment. Further, when the bank has not required the maintenance of garden, his contract was discontinued. By this, the Respondent/Bank has not violated any rules or provisions of the Act. Therefore, the Petitioner's request cannot be accepted.

11. But, again the learned counsel for the Petitioner contended that though the present Manager was examined as a witness for the Respondent/Management he was not the Manager at the time when the Petitioner was engaged

and he was also not the Manager, when he was disengaged from Guindy branch. This witness clearly admitted that cleaning of garden includes sweeping of garden and further from the affidavit produced, it is clear that he has done the cleaning work in the canteen and also sweeping work in office in most of the days in a month. No doubt, the Respondent has produced certain documents to show that they have paid amounts to M/s. Geetha Farm & Nursery, but they have not produced any copy of the agreement alleged to have been entered into between M/s. Geetha Farm & Nursery and Respondent/Bank. If really, they have got any agreement, it must have been only oral. But, even from the evidence of MWI, it is clear that the contract is only a sham and nominal one and they had direct dealings with the Petitioner and the Petitioner was under the control of the Respondent/Bank. Further, it is clear that the Respondent/Bank has compelled the Petitioner to sign as R. Munusamy in certain vouchers and M. Munusamy in certain vouchers to safeguard their interest, which is an act of unfair labour practice. No doubt, the Petitioner has not produced any document to show that he has attended the respondent/Bank from 6.00 am to 5.30 pm, but without sweeping the garden and without cleaning permission the Respondent/Bank branch cannot run in its full shape and it is clear that the Petitioner has attended all the days in a week and his work was continuous in nature and which is more or less perennial in nature. No doubt, the Respondent has prepared vouchers alleging that it was for maintenance and cleaning of garden, but the Petitioner has worked in all the seven days in a week continuously from the year 1996 till 15-4-2004 i.e. the date of illegal termination. Only to make artificial breaks, the Respondent/Bank has created Munusamy's name in vouchers and therefore, the Petitioner is entitled to be reinstated as prayed for by him and he relied the rulings reported in the decision of Supreme Court and High Court. The first decision relied on by the Petitioner is reported in 1991 ILLJ 155 STATE BANK OF INDIA Vs. CENTRAL GOVT. INDUSTRIAL TRIBUNAL AND ANOTHER wherein the Division Bench of the Madras High Court has held that "when once it is established that the workman has worked for 240 days during the period of 12 months just preceding his date of retrenchment, then notwithstanding any number of interruptions in his service on account of reasons other than those which disqualify him for getting the benefit of fictional service he would be deemed to have been in continuous service for a period of one year and would satisfy the eligibility qualification enacted by the legislature in Section 25F of the Act." The next decision relied on by the counsel for the Petitioner is reported in 2001 3 LLN 820 DEEP CHANDRA Vs. STATE OF U.P. AND OTHER wherein the Supreme Court has held that "the High Court approached the matter rather strangely as it went at a tangent to consider not only whether the Casual worker's services can be put to an end to but if the award made by Labour Court would

make him permanent employee so on and so forth. The High Court lost sight of the point in issue that i.e. when an employee had put in service for more than 240 days in each year for several years whether his service can be put to an end to without following the procedure prescribed under Section 24F of I.D. Act. If there has been violation there of such an employee will have to be reinstated in the original service on the same terms and conditions in which he was working earlier. If this is the position in law, we fail to understand as to how the High Court could have interfered with the award made by Labour Court." The third decision relied on by the counsel for the Petitioner is reported in 1986 TNLJ 153 S. THANGAPPAN Vs. Government OF TAMIL NADU AND OTHERS, wherein the High Court of Madras has held that "if there had been any irregularity committed by the appointing authority, it is the appointing authority should be proceeded with, it is the case failure of concerned office not taking action against the irregular appointment made by the appointing authority and later on their services is dispensed with as if the appointing authority who would arbitrarily terminating their service For errors and omissions committed by him, persons like that of Petitioners who have secured the last grade post on permanent basis cannot be dealt with as if they could be dropped like hot cakes. Their future cannot be treated as light heartedly. It is in this view, the Court considering that even if the appointment had not been made through Employment exchange of due to any other irregularity taking note of the difficulties to which the Petitioner would be placed by throwing out of their employment arbitrarily, the Petitioners are allowed." The next decision relied on by the counsel for the Petitioner is reported in 1994 1 LLN 501, ANDHRA BANK Vs. INSPECTOR OF LABOUR AND ANOTHER, wherein the Madras High Court has held that "Permanent Status Act—Tamil Nadu Industrial Establishment Conferment of Permanent Status to Workmen Act, 1981 is applicable to nationalised banks." The next judgement relied on by the counsel for the Petitioner is reported in 2002 4 LLN 1143 wherein the Madras High Court has held in a similar case wherein the employee was employed in different names in the management, wherein the High Court has held that "all that this path man claims is conferment of permanent status and the Respondent Corporation has thought it fit to drag this matter over a decade. The conduct of Respondent is unpardonable. The counter does not even deny that time cards were issue under various names to the Petitioner only to avoid giving him a permanent status. The original time cards were produced and in at least two of them it is seen that the Petitioner's core name was written and thereafter overwritten. Fictitious names have been introduced. It is also relevant to note that for some reason though the names in the time cards are changed, the initial 'M' remains constant. If this is not an unfair labour practice, it is difficult to assume what more came to unfair labour practice." The next decision relied on by the

learned counsel for the Petitioner is reported in 1990 2 LLN 576 BALBIR SINGH Vs. KURUKSHETRA CENTRAL CO-OP. BANK LTD. AND ANOTHER wherein the Punjab and Haryana High Court with regard to Section 2(oo) (bb) and 25b(2) and Section 25F of the I.D. Act, has held that "no doubt, the intention of Parliament in enacting Clause (bb) was to exclude certain categories of workers from the term of retrenchment, but there is nothing in this clause which allows an outlet to unscrupulous employers to shunt out workmen in the garb of non-renewal of their contract even when the work subsists. This clause as a whole has to be construed strictly in favour of workmen as far as possible as to ensure that Act is implemented in letter and spirit. If the termination is meant to exploit an employee or to increase the bargaining power of employer, then it has to be excluded from the ambit clause (bb) and definition of term retrenchment has to be given full meaning. The contractual clause enshrined in clause (bb) cannot be restored to frustrate the claim of employee against his uncalled for retrenchment or of denying other benefits." Relying on all these decisions, learned counsel for the Petitioner contended that though the Petitioner was employed as a gardener cum sweeper, it was the Petitioner who has done the sweeping work in the bank and it is clear from the records produced by the Petitioner that he has worked on all the seven days in a week and from the year 1998 to 2004 he had continuously worked in the Respondent/Bank as a sweeper cum gardener and it is not the case of the Respondent that the garden has been abolished or destroyed. It is the admission of MW1 that still the work is given to some other person, who is maintaining the garden and cleaning the same. Under such circumstances, it is illegal to retrench the Petitioner from the work of gardening and also cleaning the garden. Under such circumstances, the Petitioner prayer for reinstatement is to be allowed.

12. As against this, the learned counsel for the Respondent contended that Labour Court has no jurisdiction to issue any direction or to pass any award regularising the services of the employee without there being any sanctioned post exists and he relied on the rulings reported in 2004 103 FLR 239 wherein the Full Bench of the Gujarat High Court has held that "even if it is held that keeping daily sated casual employee for a long duration amounts to unfair labour practice that fact by itself will not make them permanent and/or regularise their service. While deciding such preferences for Industrial Tribunal at the most can pass order directing the authorities to consider their claim in the light of factors/ observations stated above instead of straightaway passing the orders of regularization or granting permanency. The Labour Court/Industrial Tribunal has no jurisdiction to issue direction or pass an award regularising the service of employees of a municipality or local authority without there being any sanctioned set up and no person can be

regularised if such a person had entered service without following selection process under the title of daily rated employee." The learned counsel for the Respondent contended that the Petitioner has not appointed in any post in the Respondent/Bank. Further, the gardening is not the work of the bank. In order to maintain the gardening work, the work of maintenance of gardening and cleaning has given under contract and when the need does not arise, the contract has been ended and therefore, the Petitioner cannot compel the Respondent/Management to engage him in the same work and further, even at the time of contract for maintenance of garden in the year 1998, the Petitioner was ineligible for appointment as sub-staff cadre since he was over aged. Further, he was not sponsored by the Employment Exchange and further more, he admits that he is an illiterate. Under such circumstances, he is not eligible for the appointment to the post of lowest cadre in the services of the bank. Under such circumstances, his request for reinstatement cannot be granted at this stage.

13. Learned Counsel for the Respondent further relied on the rulings reported in 2005 (2) SCC 183 DEPUTY GENERAL MANAGER ONGC AND ANOTHER Vs. ILIAS ABDUL REHMAN wherein the Supreme Court has held that "on a perusal of evidence adduced by workman himself shows that he went in search of employment to different places and whenever there was a temporary employment available in different departments of appellant corporation, be it field work or the work in Chemistry department, he accepted the employment and worked in these departments not in one place alone but at different places like Baroda and Mehsana. In such circumstances, we think the Industrial was justified in coming to the conclusion that number of days of work put in by Respondent in broken periods cannot be taken as a continuous employment for the purpose of Section 25F of I.D. Act..... We are of the opinion that law for the purpose of counting the days of work in different departments controlled by an Apex corporation will be governed by principles laid down in judgement of Indian Cable Co. Ltd. and the Industrial Tribunal was justified in dismissing the reference". The next decision relied on by the learned counsel for the Respondent is reported in 1997 4 SCC 391 HEMANSHU KUMAR VIDYARTHI AND OTHERS Vs. STATE OF BIHAR AND OTHERS. Wherein the Supreme Court has held that "every department of Govt. cannot be treated as industry. When appointments are regulated by statutory rules the concept of industry to the extent stands excluded. The Petitioners were not appointed to the posts in accordance with rules but were engaged on the basis of need of work. They are temporary employees working on daily wages. Their disengagement from service cannot be construed to be a retrenchment under the I.D. Act. The concept of retrenchment therefore cannot be stretched to such an extent as to engage these employees. Since the Petitioners are only daily wage employees and have no

right to the posts, their disengagement is not arbitrary." The last decision relied on by the learned counsel for the Respondent is reported in 2002 3 SCC 25 wherein the Supreme Court has held that "it was the claim of the claimant that he so worked, but this claim was denied by the appellant. It is for the claimant to lead evidence to show that he had worked for 240 days in the year preceding his termination. Mere filing of affidavit by claimant is not sufficient evidence, as it is his own statement and it cannot be regarded as sufficient evidence to come to a conclusion that the workman had in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for that period was produced by the workman, therefore, on this ground alone the award is liable to be set aside." Relying on all these decisions, learned counsel for the Respondent contended that no doubt the Petitioner was engaged for cleaning the garden and also for maintaining the garden. Even assuming for argument sake that he has worked in the Respondent/Bank on casual basis, the burden of proving that he has worked for more than 240 days in continuous period of 12 calendar months before his retrenchment is upon the Petitioner. But, in this case, no doubt, he has produced certain vouchers, but these vouchers cannot be said to be proved that he has worked for more than 240 days in a continuous period of 12 calendar months. On the other hand, the documents produced by the Respondent clearly establish that he was appointed only for cleaning of garden and also for maintenance of garden and it is also clear from the documents produced by the Respondent that even prior to the Petitioner one M/s. Geetha Farm and Nursery was appointed for maintaining the garden and also for cleaning the same. In this case, it is not the case of the Petitioner that he was under the control of the Respondent/Management. Furthermore, the Petitioner himself has admitted that no officer of the Respondent supervised his work in the garden and he plants as per his wishes. Under such circumstances, the Petitioner is only an independent contractor and therefore, he is not entitled to any relief as claimed in this dispute.

14. I find much force in the contention of the learned counsel for the Respondent. No doubt, the Respondent/Bank has created certain documents in the name of Mr. Munusamy and it is also clear that the Petitioner has made several avatars of R. Munusamy, M. Munuswamy and so on. But, on this ground, this Tribunal cannot come to a conclusion that the Petitioner has worked for more than 240 days as casual employee in the Respondent/Bank because the burden of proving that he has worked for more than 240 days in a continuous period of 12 calendar months is upon the Petitioner. Though the Petitioner has claimed that he has worked as a gardener cum sweeper and though it is the evidence of the Petitioner that cleaning of garden is also sweeping of garden, on this score, it cannot be said that he was doing the sweeping work of Respondent/Bank. The documents produced by the Petitioner has not clearly proved that he has worked for more than 240 days in a continuous period of 12

calendar months. Under such circumstances, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the concerned employees is entitled ?

15. In view of my foregoing findings, since the Petitioner has not established that he has worked for more than 240 days in a continuous period of 12 calendar months, I find the Petitioner is not entitled to any relief. No Costs.

(Dictated to the PA transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd August, 2005).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner : WW1 Sri S. Raja
For the II Party/management : MW1 B. Srinivasan

Documents Marked :

For the I Party/Petitioner :

Ex. No.	Date	Description
W1	Nil	Xerox copy of the S. B. passbook of the Petitioner.
W2	series Nil	Xerox copy of the petty cash vouchers of the Petitioner.
W3	09-03-04	Xerox copy of the advocate notice to Respondent.
W4	07-04-04	Xerox copy of the petition filed before Inspector of Labour.
W5	16-04-04	Xerox copy of the advocate notice to the management.
W6	22-04-04	Xerox copy of the 2A petition filed before Regional Labour Commissioner (Central).
W7	Nil	Xerox copy of the written submissions filed by Respondent Before Assistant Labour Commissioner (Central).
W8	22-06-04	Xerox copy of the reply filed by Petitioner before Assistant Labour Commissioner (Central).
W9	17-04-04	Xerox copy of the advocate notice.

For the II Party/Management :

Ex. No.	Date	Description
M1	02-12-96	Xerox copy of the cash bill of Geetha Farm & Nursery.
M2	01-12-97	Xerox copy of the cash bill of Geetha Farm & Nursery.

M3	01-12-98	Xerox copy of the bill for Rs. 450 paid to Petitioner.
M4	01-12-98	Xerox copy of the cash bill of Geetha Farm & Nursery.
M5	01-12-00	Xerox copy of the cash bill from S. Raja, Contractor.
M6	01-12-00	Xerox copy of the bill paid to Petitioner.
M7	31-08-01	Xerox copy of the cash bill from S. Raja, Contractor.
M8	31-08-01	Xerox copy of the bill for Rs. 450 paid to Petitioner.
M9	01-02-02	Xerox copy of the cash bill of Mr. Raja, Contractor.
M10	01-02-02	Xerox copy of the bill for Rs. 450 paid to Petitioner.
M11	31-08-02	Xerox copy of the cash bill of Sri Raja, Contractor.
M12	01-10-96	Xerox copy of the cash bill of Geetha Farm & Nursery.
M13	01-10-96	Xerox copy of the cash bill of Geetha Farm & Nursery.
M14	01-11-96	Xerox copy of the cash bill of Geetha Farm & Nursery.
M15	01-07-03	Xerox copy of the bill of R. Munusamy.
M16	01-07-03	Xerox copy of the bill of R. Munusamy.
M17	31-07-03	Xerox copy of the bill of M. Munusamy.
M18	31-07-03	Xerox copy of the bill of M. Munusamy.
M19	29-09-03	Xerox copy of the bill of M. Munusamy.
M20	29-09-03	Xerox copy of the bill of M. Munusamy.
M21	23-02-87	Xerox copy of the circular regarding recruitment of Subordinate staff.
M22	Nil	Extract of reference book on staff matters regarding terms and conditions of service of temporary employees.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4232.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सादर रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-407/2004)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-41012/52/2004-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4232.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. No. 407/2004) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workman, which was received by the Central Government on 17-10-2005.

[No. L-41012/52/2004-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 9th August, 2005

PRESENT : K. Jayaraman, Presiding Officer

Industrial Dispute No. 407/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Southern Railway and their workmen)
BETWEEN

Sri R. Muthu : I Party/Petitioner
AND

The General Manager,
Southern Railway, Chennai. : II Party/
Management

APPEARANCES :

For the Petitioner : M/s. G. Justin,
Advocates

For the Management : Mr. G. Kalyan,
Advocate

AWARD

The Central Government, Ministry of Labour vide order No. L-41012/52/2004-IR(B-I) dated 17-8-2004 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the action of the Southern Railway administration in imposing the punishment of compulsory retirement from the services of Shri R. Muthu with effect from 9-8-1993 is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D.No. 407/2004 and notices were issued to both

the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner has entered the service under the Respondent on 28-4-81 as Khalasi. While so, he was issued with Charge Sheet dated 27-2-1992 alleging that he was unauthorisedly absent for a total period of 215 days without proper application for leave. The Respondent/Management conducted the domestic enquiry and the Petitioner has participated in the enquiry. Though the Petitioner has stated the reason that he was suffered from jaundice and due to domestic problems, he did not attend the office. The Enquiry Officer did not accept the reason given by the Petitioner and gave a report holding that charges were proved. Based on the enquiry report, the Disciplinary Authority passed an order of compulsorily retiring the Petitioner from service. The charges framed against the Petitioner was only for unauthorised absence from duty. There was no charge framed against him that he was wilfully abstaining from duty. Since the Petitioner has explained the Enquiry Officer the reason for his absence and produced medical certificate it was not accepted. Under Rule 518(2) of Railway Establishment Code, Vol. I only for wilful absence disciplinary action can be initiated. Since there was no charge for wilful absence, the entire enquiry initiated by the Respondent is vitiated. Against the order of Disciplinary Authority, the Petitioner preferred an appeal, but the Appellate Authority rejected the appeal without applying his mind and he has also not passed any speaking order. The Petitioner further filed a revision Petition, which was also rejected by the authority on 19-9-94 and the revisional authority has also not applied his mind and therefore, it is not valid in law. The Petitioner further filed a second revision and it was also rejected. Therefore, the orders passed by the authorities compulsorily retiring the Petitioner from service is bad in law. Any how, considering the nature of charge, the imposition of penalty of compulsory retirement from service is shockingly disproportionate and it is a harsh punishment imposed by the Respondent against the Petitioner. Therefore, even under Section 11A of I.D. Act, this Tribunal has got every power to modify the same. Hence, for all these reasons, the Petitioner prays for reinstatement in service with all benefits including back wages and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the claim of the Petitioner itself is a stale, belated and time barred one. The Petitioner was compulsorily retired on 8-8-93 but on the other hand, he has raised the dispute only in the year 2003. Therefore, the claim is not maintainable. The reference made by the Ministry of Labour is also bad in law. Even though law does not prescribe any time limit for the appropriate Govt. to exercise its power under section 10 of I.D. Act, it is not that this power can be exercised at any point of time. No

doubt, the Petitioner was initially engaged in Southern Railway temporary carriage and wagon cleaner from 28-4-1981 on compassionate grounds. He has absented himself unauthorisedly from duty on various spells from 2-3-91 to 8-3-91, 18-3-91, 28-3-91 to 25-6-91, 4-7-91 to 6-7-91; 19-8-91 to 22-8-91; 31-8-91 to 22-9-91; 12-10-91 to 24-12-91; 31-12-91 and 5-1-92 to 16-1-92 totalling to 215 days without proper authority or following Railway Medical Attendance Rules. This unauthorised absence of the Petitioner amounts to violation of Rule 3 (1) (i) & (ii) of Railway Service Conduct Rules. For this, he was issued with Charge Sheet on 27-2-92. The Petitioner has attended the enquiry on 25-4-92 along with his defence helper and admitted the charges framed against him in enquiry proceedings. Further, the reason given by the Petitioner for his unauthorised absence was not accepted by the Enquiry Officer because, he has failed to produce any documents for having taken native treatment nor reported sick in Railway hospital health unit. Further, he had absented during different spells and in between days and he had not even bothered to inform his supervisor about his problem and sickness and the reason for his absence during different spells. After conducting the enquiry, the Enquiry Officer submitted his report and this report was sent to the Petitioner's last known address and the same was returned undelivered with an endorsement 'party not found' and after that the Disciplinary Authority has issued order of compulsorily retiring the Petitioner from service. The appeal preferred by the Petitioner before the Appellate Authority and also the revision filed by the Petitioner before Revisional Authority have been rightly rejected by the authorities. Even from the service register of the Petitioner, it can be seen that number of red entries are made and he was awarded with several penalties for habitual absence during his service under the Respondent/Management. On several occasions, his annual increment was withheld for having absented unauthorisedly from duty without proper authority. Furthermore, his increment was also withheld as a penalty for his unauthorised absence from April 1989 to May 1989. Similarly, on another occasion, one more increment was withheld for a period of six months as a penalty for his unauthorised absence from 13-6-89 to 16-7-89 without proper authority. In the year 1990, he was removed from service w.e.f. 15-4-90 as a penalty of unauthorised absence for about 72 days during the year 1989 and on appeal, it was modified to reduction to lower grade to the post of Khalasi. Under such circumstances, it is not proper to reinstate the Petitioner into service. Even in spite of several punishments, he has not reformed himself. Under such circumstances, the punishment, of compulsory retirement is proper and justified. He has not submitted any application for leave as per leave rules. All the railway servants are covered under Railway Servants (Discipline & Appeal) Rules, 1968 and not under Indian Railway Establishment Code. The principles of natural justice is not applicable to the present case. It is well settled that the workman always must be at work and not away from work. In this case, the Petitioner is a chronic absentee from service on number of occasions.

Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In the circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in imposing the punishment of compulsory retirement from service on the Petitioner is justified?"
- (ii) To what relief the Petitioner is entitled?"

Point No 1 :

6. The admitted case of both sides is that the Petitioner was employed as khalasi in the respondent/Management in the year 1981 and he was issued with charge sheet that he was in unauthorised absence for more than 215 days which amounts to violation of Rule 3 (1) (i) & (ii) of Railway Service Conduct Rules and in the enquiry, the Petitioner has admitted the charges framed against him and the Disciplinary Authority has passed an order of compulsory retirement from service and therefore, the Petitioner has raised this dispute for his reinstatement in service.

7. On the side of the 1 party, the Petitioner has examined himself as WW1 and no document was filed and on the side of the Respondent one Mr. H. Prithiviraj, Senior Clerk was examined as MW1 and 8 documents were marked as Ex. M1 to M8.

8. The main contention of the Petitioner is that he has not been given any opportunity to cross-examine the witnesses and the Enquiry Officer has put number of questions and while he was answering, the Enquiry Officer has concluded the enquiry and submitted his report. Learned counsel for the Petitioner in his written arguments contended that the Enquiry Officer has put number of questions which are in the nature of cross examination and hence, he acted as a prosecutor. Secondly, the respondent did not examine the management witnesses mentioned in the charge sheet namely Ms. N. Padmavathi, Clerk and thirdly, the Enquiry Officer relied on the muster roll which was not marked either through the delinquent employee or through management witnesses and relying on this, he has given the report stating that the charges framed against the Petitioner has been proved.

9. But, on a perusal of records, I find it is not so. because the questions put by the Enquiry Officer to the delinquent are—whether he has received the copy of the charge sheet; the next question he has asked whether he understood the charges, the third question he asked is whether he accept the charges framed against him and when the delinquent employee namely the Petitioner has accepted the charges, lastly he has asked what is the reason for his absence and he has recorded the reason given by the Petitioner. Therefore, I find there is nothing to prove that the Enquiry Officer has cross-examined the Petitioner. It is the usual formalities being followed by an Enquiry Officer in an enquiry. Further, since the Petitioner has accepted the charges framed against him, there is no question to examine any witness on the side of the

respondent /Management. Even though the Enquiry Officer relied on the muster roll, since it is admitted by the Petitioner that he was absented for duty as mentioned in the charge sheet he has relied on the muster roll produced by the Respondent. Under such circumstances, I find there is no mistake/defect committed by the Enquiry Officer in conducting the enquiry.

10 Then the learned counsel for the Petitioner contended that as per Rule 518 (2) of Railway Establishment code vol. I only for wilful absence disciplinary action can be initiated against the employees and since the Respondent/Management has not framed any charge for wilful absence, the entire enquiry proceedings of the Respondent/Management is vitiated and therefore, it has to be set aside.

11. But, as against this, learned counsel for the Respondent contended that regarding disciplinary proceedings in Railways all employees are governed under Railway Servants (Discipline & Appeal) Rules and not under Indian Railway Establishment Code. Therefore, the allegation of the Petitioner that he can be charge-sheeted only for wilful absence under Indian Railway Establishment Code and not for unauthorised absence is not acceptable one. Since both are one and the same and he cannot claim any benefit on words. It is the further argument of the learned counsel for the Respondent that railway employee has to be obtained permission/sanction from the respective superior offices before availing leave in order to enable them to make suitable alternative arrangements in the absence of persons seeking leave. During the enquiry proceedings, the Petitioner has not put forth any convincing reasons for his absence nor produced any evidence for having been treated for jaundice. Further, the Railways has its own health care system for its employee with well equipped modern hospitals/health units to provide best treatment to employees at free of cost. Though the Petitioner contended that he was taking native medicine for jaundice near his native place Villupuram, he has not produced any document to show that he was affected by jaundice and he was taking native treatment. Further, he has not informed his position or condition to his superior authorities through any letter. Furthermore, the Petitioner in this case had absented for duty not for a continuous period but at eight different spells. Under such circumstances, the reasons given by the Petitioner that he was affected by jaundice and due to some family problems, he was absented for duty is not acceptable one. Even assuming for argument sake that he was affected by jaundice, he can very well explained the position to his superior officers in between the spells. But, the Petitioner has not taken anything in that direction. But has given this reason only after issuing the charge sheet, which is only an afterthought and made to suit his convenience.

12. Learned counsel for the Respondent relied on the rulings reported in AIR 1972 SC 32 C. B. HAPPAI Vs. State of Mysore wherein the Supreme Court in a similar case has held that "*pleas of the petitioner are quite clear*

in fact, he admitted all the relevant facts on which the decision could be given against him and therefore, it cannot be stated that the enquiry was in breach of any principles of natural justice. At an enquiry facts have to be proved and the person proceeded against must have an opportunity to cross-examine the witnesses and to give his own version or explanation about the evidence on which he is charged and to lead his defence" and held that enquiry need not be conducted in an elaborate manner, since he has admitted the guilt, Learned counsel for the Respondent further contended that even though the Petitioner's advocate argued that under Section 11A of the Act this Tribunal has got every power to use its discretion in favour of the Petitioner. In a case similar to this, the High Court of Madras has held in 1998 ILLN 710 ANNA TRANSPORT CORPORATION Vs. LABOUR COURT, SALEM AND ANOTHER has held that 'long history of repeated absence on the part of the workman and the long absence of about five months continuously for which he was ultimately dismissed from service. The employer is not required to function as a charity organization. Any organization is established to render efficient service and fulfill the object for which it has been set up. If its personnel stay away from work frequently and for long periods no organisation can retain them in employment. The discretion under Section 11A is not meant to be equated to charity. That is not the object of Section 11A of the I.D. Act.' In this case, from the records produced by the management namely Ex. M8, copy of the service register of the petitioner, it is clear that on number of occasions, the Petitioner was imposed with the penalty of withholding of increment for his unauthorised absence and it clearly established that he was a chronic absentee for duty and he has not interested in his work. Under such circumstances, it cannot be said that the punishment imposed on the Petitioner is harsh or disproportionate to the charges framed against him. Under such circumstances, this Tribunal need not interfere with the punishment given to the Petitioner. Learned counsel for the Respondent further contended that even though there is no time limit to refer a dispute under Section 10, yet, it must be within the reasonable period and for reasonable cause and in this case, the order of compulsory retirement was passed in the year 1993, but the Petitioner has challenged this order only in the year 2003 in the labour forum. Under such circumstances, he must state the reason for taking action after a long lapse of time namely ten years and therefore, the claim of the Petitioner is to be dismissed for his long lapse of time. Further, the learned counsel for the Respondent relied on the rulings reported in 1998 LAB IC 1702 U.P. STATE ELECTRICITY BOARD AND ANOTHER Vs. PRESIDING OFFICER, LABOUR COURT, KANPUR AND 2000 (3) SLJ 22 THE NEDUNGADI BANK LTD. Vs. K. P. MADHAVANKUTTY AND OTHERS, wherein the Supreme Court has held that "Though there is no time limit to refer under Section 10 yet, it must be within a reasonable period only and for reasonable cause. For dismissal of the employee in the year 1972, the industrial dispute was referred by the

Central Govt. after a lapse of 8 years. The Central Govt. lacks power bath on the ground of invoking Section 10 (1) and there being no industrial dispute in existence or apprehended. The present reference is detrimental to industrial peace." Relying on these decisions, learned counsel for the Respondent argued that ten years after the order of compulsory retirement was passed, the Petitioner challenged the same before the labour authorities and he has not stated any valid reason for such long delay. In such circumstances, even the reference made by the Govt. is not valid in law.

13. Though, I find some force in the contention of the learned counsel for the Respondent, since the enquiry conducted in this case cannot be said as defective and since the discretion under section 11A of the Act cannot be invoked in the circumstances shown before this Court, I find the Petitioner is not entitled to any relief as claimed by him. Therefore, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

14. In view of the my above findings, I find the Petitioner is not entitled to any relief as claimed by him. No Costs.

15. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him. corrected and pronounced by me in the open court on this day the 9th August, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner	:	WW1 Sri R. Muthu
For the II Party/Management	:	MW1 Sri H. Prithviraj

Documents Marked :

For the I Party/Petitioner	:	Nil
For the II Party/Management	:	

Ex.No.	Date	Description
M1	27-02-92	Xerox copy of the charge sheet
M2	25-04-92	Xerox copy of the enquiry proceedings
M3	21-10-92	Xerox copy of the enquiry report and findings
M4	23-07-93	Xerox copy of the penalty advice
M5	07-12-93	Xerox copy of the letter from Respondent to Petitioner
M6	19-09-94	Xerox copy of the letter from Respondent to Petitioner
M7	1985	Extract from Indian Railway Establishment Code Vol. I
M8	Nil	Extract from Service register of the Petitioner

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4233.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-340/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/278/2003-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 340/2003) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/278/2003-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 26th August, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 340/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN:

Sri B. Syed Hussain : I Party/Petitioner
AND

The Deputy General Manager : II Party/
(Per. & HRD), State Bank Of Management
India, Trichy

APPEARANCE:

For the Petitioner: M/s R. Arumugam
Advocates

For the Management: Mr. S. Kanniah,
Advocate

AWARD

The Central Government, Ministry of Labour vide order No. L-12012/278/2003-IR(B-1) dated 05-04-2004 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the punishment of discharge from service imposed against Sri B. Syed Hussain by the management of State Bank of India is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 340/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was appointed as messenger in the services of the Respondent/Bank at Trichy on 22-4-77. Subsequently, he was promoted as record keeper and posted to various places and he had put in altogether around 23 years until, he was terminated by the Respondent/Bank on 30-12-2000. When he was in Ariyalur/branch, he was issued with show cause notice by the Respondent/Bank on 29-6-99 reporting against him certain misconduct. Even though he has given an explanation, not satisfied with the explanation, an enquiry was ordered to be conducted against him. The Enquiry Officer after the enquiry has given a report stating that the charges 1 to 5 were proved and established. The Disciplinary Authority has given proposed punishment of discharge and passed a final order on 30-12-2000. Even though the Petitioner has preferred an appeal, the appeal was dismissed on 29-10-2001. The Enquiry Officer has relied on the Xerox copies of documents which cannot be admitted as evidence in the domestic enquiry. It is also a violation of principles of natural justice and the enquiry findings based on the Xerox copies are nothing but perverse. No material evidence was produced in the enquiry, though they were shown as witnesses. The Disciplinary Authority has not considered the circumstances narrated by the Petitioner in his letter dated 14-12-2000 while passing the final order. Even though the Disciplinary Authority has stated his past record, which did not form part of the charge sheet. The order passed by the Disciplinary Authority indicates is bias towards the Petitioner and his conclusion was based on the evidence on record. The punishment awarded to the Petitioner is not only harsh but also disproportionate to the reported lapses. The Disciplinary Authority and Appellate Authority have not applied their mind independently while disposing of the case. The punishment imposed on the Petitioner is excessive, harsh and disproportionate to the charges levelled. Further, the Petitioner was discriminated as the lapses of similar nature

have been awarded with lesser punishment namely censure. In the case of Mr. Selvakumar, Susan Latha the Respondent/ Management issued identical Chargesheet dated 19-6-99 and 26-4-2003 and awarded a lesser punishment of censure and warning for the very same lapses. But, in the case of the Petitioner capital punishment was imposed and it is a discrimination shown on the Petitioner. Any how, this Tribunal has got ample powers under section 11A of the I.D. Act to interfere with the order of punishment. Hence, for all these reasons the Petitioner prays for an award directing the Respondent to reinstate him in service with continuity of service with all other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that it is true that the Petitioner entered as a messenger on 22-4-1977 in the services of the Respondent. It is also true that he was promoted as record keeper on 1-3-89 and posted to various places. But while he was in Tennur branch it was brought to light that he has committed serious misconducts. Therefore, show cause notice was issued to Petitioner calling upon him to offer his explanation. Since his explanation was not satisfactory, the Respondent/Bank has ordered to conduct domestic enquiry. The Enquiry Officer appointed in this case has given full opportunity to the Petitioner to prove his innocence. The Petitioner has participated in the enquiry and he has accepted all the charges voluntarily and has also given a letter to that effect before the Enquiry Officer. After considering the gravity of the misconduct, the Disciplinary Authority proposed to impose the punishment of discharge from service and finally, the Disciplinary Authority after considering the relevant facts have imposed the punishment of discharge from service by an order dated 30-12-2000. Even on appeal, the Appellate Authority after considering the submissions made by the Petitioner has confirmed the orders of Disciplinary Authority. The enquiry was conducted in a fair and reasonable manner. The Petitioner has not objected the validity or invalidity of any one of the documents produced and marked in his presence during the course of enquiry proceedings. Therefore, he is estopped from raising any objection about these documents. The Petitioner knowing fully well that he has no savings bank account (cheque facility) has manipulated and made use of somebody's cheques for his own benefits, which would reveal his intention to cheat the Respondent/Bank and the customer. Therefore, the punishment imposed on the Petitioner is fair and just. The Disciplinary Authority and Appellate Authority have independently and dispassionately considered the claim of the Petitioner before imposing the punishment on him. The Petitioner has no right to compare with the disciplinary proceedings initiated against others since the same were on different footing altogether. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Under these circumstances, the points for my consideration are-

(i) "Whether the punishment of discharge from service imposed against the Petitioner by the Respondent/ Management is legal and justified?"

(ii) "To what relief the Petitioner is entitled?"

Point No. 1:-

6. In this case, there is no doubt that the Petitioner was appointed as messenger on 22-4-1977 of the Respondent /Bank in Trichy branch and subsequently, he has been promoted and transferred to various places. The charge framed against the Petitioner is that he has taken unauthorised possession of cheque leaves pertaining to account No. 01190 094112 of Mr. S. Santhanakrishnan, Assistant Manager of the branch at Thennur without his knowledge in order to put the same for improper use. Further, he has made fraudulent alterations in the cheque leaves by subscribing or branding thereon the number of his O.D. current account at the branch and deliberately disfiguring the genuine account number bearing on the above said cheque leaves, while making use of cheques for fraudulent/unauthorised purpose. Further, he has affixed his signature on the above referred cheques as drawer on his O.D. Current account No. 01090/094383 for a total sum of Rs. 15,000 and have attempted to cause the bank to pay these cheques which were presented through clearing by Indian Overseas Bank, Thiruvanaikovil Branch. The said cheques when presented in the clearing by Indian Overseas Bank, Thiruvanaikovil branch had to be returned unpaid by the bank for the reason 'account number and name (drawer) differ and insufficient funds, cheques do not pertain to the drawer.' In the domestic enquiry when the charges read out to the Petitioner, he has admitted the charges framed against him and he has given a letter stating that he had no intention to defraud the bank. After the enquiry, the Disciplinary Authority after considering the entire evidence has issued a show cause notice proposing the punishment of discharge from service. Even after the 2nd show cause notice the Petitioner has submitted that he has not want only defraud the branch and there was no intention to defraud the same and after considering the submissions, the Disciplinary Authority has imposed the punishment of discharge from service. Though the Petitioner has attacked the enquiry on several grounds in the claim statement, at the time of argument, learned counsel for the Petitioner has emphasized only with regard to discrimination in imposition of punishment by the respondent/Bank. The Respondent/Bank has filed Ex. M1 to M13 and the Petitioner has filed Ex. W1 to W9.

7. Learned counsel for the Petitioner contended that the punishment imposed on the Petitioner is excessive, harsh and disproportionate to the charges levelled and at the same time, he was discriminated as lapses of similar

nature have been awarded with lesser punishment namely censure by the Respondent/Bank and he narrated about two cases and the first case is in respect of one Mr. Selvaraj. It is argued that the Respondent/Management issued identical chargesheet dated 19-6-99 namely under the original of Ex. W2 and awarded a lesser punishment of censure and warning for the very same lapses by an order dated 10-3-2001 namely under Ex. W3 and he has stated that in the case of one Mrs. Sujan Latha the Respondent/Bank issued chargesheet dated 26-4-2003 under Ex. W4 and the charges levelled against her are identical and same. But the Respondent/Bank imposed minor punishment only by warning order dated 5-5-2004 under Ex. W5. Further, the learned counsel for the Petitioner stated that in the case of Mr. Manoharan, the Respondent/Bank issued identical and similar chargesheet dated 30-12-03 under original of Ex. W6 and after enquiry, the Respondent proposed the lesser punishment of bringing down his basic pay by two stages for two years under the original of Ex. W8 and the said punishment was also confirmed by final order under original of Ex. W9. Learned counsel for the Petitioner further contended that the chargesheet dated 29-6-99 issued to the Petitioner and the chargesheet dated 19-6-99, 26-10-2003 and 30-12-2003 issued to Mr. Selvaraj, Mrs. Sujan Latha and Mr. Manoharan respectively are almost identical and in fact the amount involved in the cheque and outside transaction is more. But in all these cases, there was no loss to the Respondent/Bank and in the above said similar cases, only minor punishment were given. But, on the other hand, in the case of the Petitioner, the capital punishment of discharge is given, thus, it is total discrimination shown on the Petitioner. It is his further contention that the Respondent has not denied the plea of discrimination in the Counter Statement, but they have stated that the Petitioner cannot compare the same since they were on different footings. But no oral evidence was examined to explain what is the different footing in all these cases. No doubt, the learned counsel for the Respondent contended that the three employees namely Mr. Selvaraj, Mrs. Latha Susan and Mr. Manoharan are in different zones and the authorities imposed the punishments are different, but the management is one and the same and all the authorities in different zones are covered by circulars and instructions in respect of taking disciplinary proceedings and therefore, the Respondent cannot say for similar charge different punishments can be imposed namely one punishment at Chennai and different punishment at Trichy. Though the Disciplinary Authority has relied on the past record of the Petitioner, The Petitioner was not put on notice and further, even assuming for argument sake that he has been imposed with punishments previously they were only warning and censure, on the other hand, the Petitioner had put in more than 23 years of service, which was not considered by the Respondent/Management. Therefore, there is a discrimination in awarding the punishment and the

punishment is very harsh, excessive and disproportionate to the charges levelled against the Petitioner. He relied on the rulings reported in 2004 3 LLN 432 Himmat Singh Bhati Vs. State of Rajasthan and Others wherein Jodhpur Bench has held that "*When a joint enquiry was conducted and finding is recorded holding two persons guilty particularly in a matter of conspiracy where the role of two persons may be different but conspiracy is with an object to achieve one result then normally there must exist cogent reason for giving different punishment to two employees.*" Further it has observed that "*merely because one of the employees is retired during the pendency of departmental enquiry, it cannot be a ground to give two different punishments to Petitioner and co-delinquent employee, therefore, the reason given for different punishments cannot be sustained.*" The next decision relied on by the learned counsel for the Petitioner is reported in 2000 10 SCC 280 Assistant General Manager, SBI Vs. Thomas Jose and Another wherein the Supreme Court when considering a case that a bank employee was dismissed from service for admitted misconduct of withdrawing money unauthorisedly from customer's account, the Supreme Court has held that "*We think that the appropriate order should at least have been of reinstatement without back wages plus a direction that the first Respondent would not be entitled to any increments for a substantial period with all the cumulative consequences of such an order. That is the order we propose to pass and they have modified the said order.*" The next decision relied on by the learned counsel for the Petitioner is 1998 2 SCC 407 Director General of Police and Others Vs. G. Dasayan wherein the Supreme Court has held that "*When the co-delinquent except the Head Constable were let off though the charges were identical, the Supreme Court set aside the order of the Tribunal and in the place of order of dismissal passed by the disciplinary Authority, order of compulsory retirement is substituted.*" Relying on these decisions, the learned counsel for the Petitioner argued that there was discrimination done on the Petitioner and on this ground alone, the order of discharge passed in this case is liable to be set aside. Further, he contended that under section 11A of the I.D. Act, this Tribunal has got ample powers to interfere and modify the punishment. He contended admittedly in this case, there was no unauthorised withdrawal of money but there was no loss to the bank, but in spite of that capital punishment namely order of discharge was imposed. Hence, this Tribunal can modify the punishment with the powers vested under Section 11A of the I.D. Act.

8. But, as against this, learned counsel for the Respondents contended that once it is proved that the employee has committed a gross misconduct and behaved dishonestly the bank is losing confidence and such an employee could not be thrust, detriment to the interest of the management. In a bank or company or institution

between the employer and employee there must be confidence and trust for its well being and positive growth. If this position continues, undoubtedly, the employers as well as the employee would stand benefited and it is for the employee to be loyal to the employer since he has also to grow along with the management and this is based upon the confidence and thrust mutually. If that confidence is shaken breached by the conduct of workman or employee, by committing misappropriation then no useful purpose would be served, by retaining that man in the company, incurring loss or inviting problems always, which is not desirable for the healthy growth of a company. Further, it is also not desirable to direct the Respondent/Management to reinstate such a person who had committed dishonest act, defrauding the company, making financial loss by misappropriation invoking the power conferred under section 11A of the I.D. Act. It is his further argument that in case an employee has committed some ordinary mistake without any intention, not deriving any pecuniary advantage by that mistake not causing any monetary loss to the company, then such kind of offence or the misconduct could be excused to some extent and the employee could be protected and not otherwise, that too in case of this misconduct. Further the learned counsel for the Respondent contended that the Petitioner has not done this mistake for the first instance, so many charges of misconduct were framed against him and he was awarded with the punishment. He has also cited several judgements in which the Supreme Court has deprecated with regard to misplaced sympathy, generosity and private benevolence when discretionary powers are used in favour of a person, who does not deserve the same. Learned counsel for the Respondent contended that in this case, the Petitioner was knowing fully well that he has no Savings Bank account (cheque facility) has manipulated and made use of some body's cheque namely the cheque of the Assistant Manager of the branch for his own benefits and this will clearly reveal his intention to cheat the Respondent/Bank and the customer. Further, he falsely and frivolously contended that charges were framed against the Petitioner without any complaint. Under such circumstances, it cannot be said that the punishment imposed on the Petitioner is too harsh or disproportionate to the charges framed against him. Learned counsel for the Respondent relied on Ex. M12 and M13 which are the charges framed against the Petitioner, when the Branch Manager refused to certify the completion of work upto roof level, for which he has obtained loan, the Petitioner had tampered with bank records by insertion to the bank letter and gained pecuniary advantage and made a false claim that the work has been complete upto roof level and the punishment of warning was issued to him for the said misconduct. Further, it is argued that the Petitioner has been censured for the misconduct committed by him prior to this occasion. Learned counsel for the Respondent contended that though Mr. Selvaraj, Susan Latha and Mr. Manoharan

have committed a similar misconduct, the said persons were in different zones namely Madras Zone and further in the case of Mr. Selvaraj even in the order passed by the Disciplinary Authority, he has given a lenient punishment only because, he has committed the said misconduct for the first time. With regard to Mrs. Susan Latha and Manoharan, the Petitioner is not able to say whether they have done the said misconduct for the first time or committed misdeeds for several times. But it is admitted that Disciplinary Authorities are different and the disciplinary proceedings were conducted in different zones and these persons charges were not jointly tried by the same Disciplinary Authority. Under such circumstances, no comparison can be made by quoting the punishment imposed on the said persons and they are not co-delinquents with the Petitioner. Under such circumstances, it cannot be said that there was a discrimination in the imposition of punishment against the Petitioner. The learned counsel for the Respondent further relied on the rulings reported in 2005 (2) TLNJ 47, wherein the Supreme Court has held that "*the Disciplinary Authorities have invested with discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of High Court/Tribunal it would appropriately mould the relief either directing the Disciplinary Authority or Appellate Authority to reconsider the penalty imposed or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof and the Court would not interfere with the administrator's decision unless it was illegal or suffered from procedural impropriety or was irrational i.e in the sense that it was in outrageous defiance of logic or moral standards.*" Learned counsel for the Respondent further relied on the rulings reported in 2003 AIR SCW 944 CHAIRMAN AND MANAGING DIRECTOR, UNITED COMMERCIAL BANK Vs. P.C. KAKKAR in which the Supreme Court has held that "*the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court in the sense that it was in defiance of logic or moral standards.*" He further relied on the decision reported in 1997 3 SCC 371 BALBIR CHAND Vs. FOOD CORPORATION OF INDIA LTD. AND OTHERS wherein the Supreme Court has held that "*merely because one of the officers was wrongly given the lesser punishment compared to others against whom there is a proved misconduct, it cannot be held that they too should also be given the lesser punishment lest the same mistaken view would be repeated. Omission to repeat the same mistake would not be violative of Article 14 and cannot*

be held as arbitrary or discriminatory leading to miscarriage of justice. It may be open to appropriate higher authority to look into the matter and take appropriate decision according to law." In that case, Petitioner contended that some of the delinquents were let off with a minor penalty while the Petitioner was imposed with a major penalty of removal from service in which the Supreme Court has held as above. Learned Counsel for the Respondent further contended that in this case, it cannot be said that the delinquents mentioned as Mr. Selvaraj, Susan Latha and Manoharan are co-delinquents with the Petitioner. It is admitted that they belonged to different zones and though the charges are similar to the charges mentioned against the Petitioner, they were enquired by different Enquiry Officers and also Disciplinary Authorities were different. In such circumstances, it cannot be said that the same punishment should be awarded to the Petitioner also.

9. I find much force in the contention of the learned counsel for the Respondent because in this case, after considering the previous punishments and also the misconduct, the Disciplinary Authority has come to a conclusion to impose the major punishment on the Petitioner. Under such circumstances, I am of the view that the punishment of discharge from service imposed on the Petitioner by the Respondent/Bank is justified and this Tribunal cannot interfere with the punishment imposed on the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

10. In view of my foregoing findings, I find the Petitioner is not entitled to any relief. No Costs.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 26th August, 2005.

K. JAYARAMAN, Presiding Officer

Witnesses Examined:-

For the I Party/Petitioner : WW I Sri B. Syed Hussain

For the II Party/Management : None

Documents Marked :—

For the I Party/Petitioner

Ex.No.	Date	Description
W1	27-11-00	Xerox copy of letter from Disciplinary Authority to Petitioner
W2	19-06-99	Xerox copy of the charge sheet issued to Mr. Selvaraj
W3	10-03-01	Xerox copy of the censure order issued to Selvaraj
W4	26-04-03	Xerox copy of the charge sheet issued to Susan Latha

W5	05-05-04	Xerox copy of the warning issued to Mrs, Susan Latha
W6	30-12-03	Xerox copy of the letter from Respondent to B. Manoharan, Daftry
W7	10-03-04	Xerox copy of the letter from Respondent to Mr. Manoharan
W8	05-10-04	Xerox copy of the letter from respondent to Mr. B. Manoharan
W9	20-10-04	Xerox copy of the letter from respondent to Mr. B. Manoharan

For the II Party/Management

Ex.No.	Date	Description
M1	27-05-99	Xerox copy of the show cause notice
M2	28-05-99	Xerox copy of the explanation given by Petitioner
M3	29-06-99	Xerox copy of the charge memo issued to Petitioner
M4	28-04-00	Xerox copy of the explanation given by Petitioner
M5	07-06-00	Xerox copy of the enquiry report.
M6	22-06-00	Xerox copy of the 2nd show cause notice
M7	27-07-00	Xerox copy of the further explanation given by Petitioner
M8	14-12-00	Xerox copy of the proceedings of personal hearing
M9	30-12-00	Xerox copy of the order of Disciplinary Authority
M10	15-02-00	Xerox copy of the appeal preferred by Petitioner
M11	29-10-01	Xerox copy of the order of Appellate Authority
M12	28-05-93	Xerox copy of the letter from Disciplinary Authority to Petitioner
M13	23-12-95	Xerox copy of the letter from Disciplinary Authority to Petitioner

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4234.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-298/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/211/2003-आई आर(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 298/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/211/2003-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 7th June, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 298/2004

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India, Trichy and their workmen]

BETWEEN

- | | |
|----------------------------------|---|
| 1. C. Thanigachalam (deceased) : | I Party/
Petitioner |
| 2. Smt. T. Andal | } (Petitioners 2 & 3 are
impleaded as per
order of this Tribunal
in I.A. No. 14/2005 dt.
21-3-2005) |
| 3. Sri T. Amudharaj | |

AND

- | | |
|--|---------------------------|
| 1. The Deputy General Manager :
State Bank Of India, Trichy. | } II Party/
Management |
| 2. The Assistant General Manager
State Bank of India, Trichy. | |

APPEARANCE:

- | | |
|-----------------------|---|
| For the Petitioners : | M/s. Balan Haridas,
R. Kamatchi
Sundaresan, Advocates |
| For the Management : | M/s. S. Kanniah & N.S.
Shanmugasundaram,
Advocates |

AWARD

The Central Government, Ministry of Labour vide order No. L-12012/211/2003-IR(B-I) dated 23-01-2004 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is —

“Whether the action of the management of State Bank of India, Trichirapalli in discharging the services of Sri C. Thanigachalam, Ex-Assistant (Accounts) for the alleged fraudulent act is legal and justified? If not, to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 298/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively. Since the 1st Petitioner in this dispute died on 27-11-2004, LR's of the 1st Petitioner filed an I.A. No. 14/2005 to implead themselves as 2nd and 3rd Petitioners in this dispute and this Tribunal vide an order dated 21-3-2005 allowed the same and hence the LR's are impleaded as Petitioners 2 & 3 in this dispute.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The 1st Petitioner has joined the service of the Respondent/Bank during the year 1989 as armed guard and he was working in Eyyil branch of the Respondent/Bank. While so, the 1st Petitioner was suspended from service by an order dated 10-5-99. Thereafter, the respondent/Bank issued charge sheet dated 3-9-99. The charge sheet contains eight charges and domestic enquiry was constituted and the Enquiry Officer by his findings dated 7-2-2001 held that charge Nos. 1, 2, 3 and 5 have been proved and the charge Nos. 4, 6, 7 and 8 were not proved. Based on that Enquiry Officer report, the Disciplinary Authority proposed the punishment of discharge from service and even in spite of efforts taken by the 1st Petitioner, the Disciplinary Authority has imposed the said punishment by his order dated 5-7-2001. The 1st Petitioner's appeal to the Appellate authority was also rejected. The allegations in the charge sheet issued on 3-9-99 are that the 1st Petitioner has made fraudulent withdrawal of Rs. 2000/- from the customer's S.B. Account by forging his signature on 25-6-98; remitted back a sum of Rs. 1000/- on 4-1-99 thereby misappropriating the amount for a period of 193 days; remitted back another sum of Rs. 1000/- into the same account on 17-2-99 thereby misappropriating the amount for 237 days; failed to account for in branch books a sum of Rs. 1900/- remitted at his counter by a customer for credit of his gold loan account and misappropriated the same; made unauthorised entries in the relative gold loan memo card as though the above referred amount has been duly accounted for in the branch book; returned the said amount of Rs. 1900/- to customer on 22-1-98 when he called at the branch thereby misappropriating the amount for some days; failed to protect the interest of the bank by making unauthorised extraneous credit entry of Rs. 1000/- in the memo card of a gold loan borrower without verifying whether the amount has been duly accounted for in branch books; failed to

protect the interest of the bank by making unauthorised credit entry of Rs. 1,000 in the memo card of another gold loan borrower without verifying whether the amount has been duly accounted for in the branch books. But, with regard to charge No.1 to 3 alleged against the Petitioner, neither the forgery nor misappropriation has been proved in the enquiry. There was not even an iota of evidence to show that it was the Petitioner who had paid Rs. 1,000 on two occasions and the reasoning given by the Enquiry Officer is not proper. No material was placed to show that the handwriting and signature of the accountholder was forged by the Petitioner. The oral assertion of the Presenting Officer that the accountholder was in Bangalore on 4-1-99 is not valid. Thus, the findings rendered by the Enquiry Officer is not based on any evidence, but it is based on surmises. With regard to charges 4, 5 and 6 are interlinked. When the Enquiry Officer has held that charge Nos. 4 and 6 were not proved, the findings of the Enquiry Officer that charge No. 5 has been proved is most perverse and contrary to evidence on record. The Disciplinary Authority has agreed with such findings rendered by the Enquiry Officer and imposed the capital punishment of dismissal from service. Thus, the Disciplinary Authority has not applied his mind independently to the findings and materials on record. The Appellate Authority also has not gone through the matter and he has given extraneous reasons for coming to the conclusion and the document relied on by the Appellate Authority is PEX 15, the letter which has been obtained from the 1st Petitioner under coercion and duress. When the original Authority has not found so, the Appellate Authority has not given any reason for holding the 1st Petitioner guilty of charges and he cannot assign any new reason, which was not given by either Enquiry Officer or Disciplinary Authority. Thus, the order of Appellate Authority is illegal, arbitrary and against the law. The past record of service of the 1st Petitioner, which is unblemished has not been taken into consideration before imposing the capital punishment on the 1st Petitioner. Any how, even assuming without conceding that charges are proved the punishment imposed on the 1st petitioner is shocking and this Tribunal has every right to interfere with the same under section 11A of the I.D. Act. Hence, for all these reasons, the 2nd & 3rd Petitioner pray to set aside the order impugned passed by the Respondent/Bank and direct the Respondent/Bank to pay back wages to the 2nd & 3rd Petitioners who are LRs of the 1st Petitioner.

4. The Respondent in its Counter Statement contended that while the Petitioner was working as Assistant in Eyyl branch of the Respondent/Bank he has committed certain serious irregularities, hence he has placed under suspension on 10-5-99. Even though the charge sheet was issued to him calling upon him to offer his explanation for the misconduct committed by him, the 1st Petitioner has not given any explanation. Therefore,

enquiry was conducted against him and the 1st Petitioner participated in the enquiry along with his representative and the Enquiry Officer has submitted his report stating that the charges 1, 2, 3 and 5 were proved and the other charges namely 4, 6, 7 and 8 were not proved. The 1st Petitioner participated in the enquiry proceedings before the Disciplinary Authority and the Disciplinary Authority after considering all the aspects of the case imposed the punishment of discharge from service by his order dated 5-7-2001. Since the misconduct committed by the 1st Petitioner is very serious, he was awarded with the said punishment. The misconduct of fraudulent withdrawal of Rs. 2000 from customer's S.B. Account by forging his signature and thereafter depositing the amount belatedly and once again forging signature of the customers were proved in the domestic enquiry. Further, it is an admitted fact that the complainant customer who was on duty in Army during the relevant time and he would not have presented the withdrawal form at the disputed time. Now the 1st Petitioner alleged that the confessional statement was obtained by force, which is an afterthought to get over his guilt. The 1st Petitioner never disputed the validity of the document and also not sought for the comparison of disputed signature in the various documents. The conclusion arrived at by Enquiry Officer as well as Disciplinary Authority is correct. Therefore, the enquiry was held in a fair and proper manner and the punishment imposed for the serious misconduct committed by the 1st Petitioner is just and reasonable. The Respondent/Bank being repository to public trust and cannot carry on their banking business with persons of doubtful integrity and bonafide and depending upon the fraud committed by the Petitioner, severe action has been taken so as to provide suitable deterrent to other employees of the bank. Hence, the Respondent prays to dismiss the claim of the Petitioner.

5. In such circumstances, the points for my determination are-

(i) "Whether the action of the Respondent/Bank in discharging the services of the 1st Petitioner for alleged fraudulent act is legal and justified?"

(ii) To what relief the Petitioners 2nd and 3rd are entitled?"

Point No. 1 :

6. The case of the Petitioners in this dispute is while the 1st Petitioner was working as Assistant (Accounts) in the Respondent/Bank on 10-5-99 he was suspended for the alleged misconduct and charge sheet was issued to him on 3-9-99 on the ground that he has made fraudulent withdrawal of Rs.2000 from the customer account by forging his signature on 25-6-98 and remitted the said amount into the S.B. account on two occasions namely 4-1-99 and 17-2-99 thereby misappropriating the amount for 193 days and 237 days respectively. Thus, the

charges 1 to 3 have been framed against him and another five charges have also framed against him. But, in the enquiry, the Enquiry Officer has held that only charges 1 to 3 and 5 namely the 1st Petitioner made an unauthorised entry in the gold loan memo card, as though the above referred amount has been duly accounted for in branch books without actually paying the amount.

7. In this case, on behalf of the Petitioner three documents have been filed which are marked as Ex. W1 to W3 namely copy of the letter forwarding enquiry report and Ex. W2 is the comments on the enquiry report submitted by 1st Petitioner and Ex. W3 is the copy of 2nd showcause notice dated 8-6-01. As against this, on the side of the Respondent Ex. M1 to M13, the enquiry proceedings and also connected papers were marked. Both sides have not examined any oral evidence before this Tribunal.

8. Learned counsel for the Petitioners argued that though the Enquiry Officer has held that charge Nos. 1 to 3 and 5 have been proved, neither the allegation of forgery nor the allegation of misappropriation has been proved in the enquiry. The Respondent/Bank has not examined the alleged accountholder namely Mr. G. George Williams. The Enquiry Officer has come to a conclusion only on the alleged complaint made by Mr. George Williams that on the concerned date he was in a different place and he would not have been presented the withdrawal slip or payment challan on the dates mentioned in the withdrawal slip and also payment challan. Further, only because of the allegations that the accountholder on the concerned date i.e. 25-6-98 had been on duty in army, the Enquiry Officer cannot hold that withdrawal cannot be made by the accountholder on that date. The oral assertion of the Presenting Officer that the accountholder was in Bangalore on 4-1-99 i.e. on the date of payment of Rs. 1,000 and therefore, he could not have credited the said amount cannot be accepted as evidence. Therefore, in respect of the charges 1 to 3 there was no evidence placed before this Tribunal to show that the withdrawal has been made by the 1st Petitioner and remittance was made by the 1st Petitioner. Therefore, the findings rendered by the Enquiry Officer was not based on any evidence but based on surmises. Similarly, with regard to charge No. 5, which is interlinked with charges 4 and 6 that they have received Rs. 1900 from a customer towards gold loan account No. 14/379 during January, 1998 and failed to account for in the bank's account but made unauthorised entry in the gold loan memo card issued to the customer in respect of gold loan account No. 14/379. When the Enquiry Officer has rightly held that charge Nos. 4 and 6 have not been proved but he has come to a strange conclusion that charge No. 5 has been proved on the ground that the Petitioner has initialled in the gold loan memo card and thereby acted negligently. Therefore, the findings of the Enquiry Officer is most perverse. Further in charge Nos. 4 to 6 it was alleged

that it is misappropriation of amount and also negligence on the part of the Petitioner. When the major allegation of misappropriation has been failed, the Enquiry Officer used to hold that minor misconduct alleged against the 1st Petitioner is also not proved. Therefore, the findings is not only perverse but contrary to evidence on record. The Disciplinary Authority who has based the Enquiry Officer's report has not applied his mind independently to the findings and materials on record. Similarly, the Appellate Authority has given new reasons, which were not given either by Enquiry Officer or by Disciplinary Authority. Therefore, the orders passed by Disciplinary Authority and also Appellate Authority are illegal, arbitrary and against the law. It is the further contention of the learned counsel for the Petitioner that Respondent/Management has not considered the past record of the 1st Petitioner which is an unblemished one and it has not been taken into account while imposing the capital punishment. Any how, the punishment given by the Respondent/Management is shocking and therefore, this Tribunal has got every power to interfere with the punishment under Section 11A of the I.D. Act.

9. As against this, the learned counsel for the Respondent contended that the misconduct of fraudulent withdrawal of Rs. 2000 from the customer of S.B. account by forging his signature on 25-6-98 and thereafter depositing the amount belatedly on 4-1-99 and 17-2-99 were really proved in the domestic enquiry and it is also an admitted fact that complainant namely the accountholder was on duty in Army during the relevant time and he would not have presented the withdrawal slip at the disputed time. Above all, the 1st Petitioner has admitted this misconduct under Ex. PEX 15, which is supported the claim of the Respondent/Bank. Under PEX 15 the 1st Petitioner has given an explanation to show cause notice issued to him, wherein he has clearly admitted that he has forged the signature of the accountholder and subsequently, made two payments on the dates mentioned in the show-cause notice. Though, he alleged in the claim statement that this letter was obtained under duress and coercion, such allegation was not made prior to filing of claim statement. Therefore, this is only an afterthought to wriggle out the situation. Further, there is no contra evidence to show that this letter Ex. PEX 15 before the domestic enquiry was obtained by undue influence or coercion and under such circumstances, the allegation that it was obtained by coercion is only an afterthought. Even before this Tribunal, he has not let in any evidence to show that it was obtained by force and under such circumstances, this allegation was made only to wriggle out the situation and the 1st Petitioner has never disputed the validity of the document and also not sought for any comparison of disputed signature in various documents. Therefore, the conclusion arrived at by the Enquiry Officer as well as the Disciplinary Authority with regard to the

charge Nos. 1, 2 and 3 are correct. With regard to charge No. 5, it is only alleged that he was guilty of making false and unauthorised entries in gold loan memo card relating to gold loan account No. 14/379, as though the amount has not been received by the bank and has not been accounted for in banker's book, but without making remittance of the amount of Rs. 1900/-. It is established before the domestic enquiry that initial made in the gold loan memo card is that of the 1st Petitioner and Under such circumstances, the burden of proving the fact how his initial was obtained in the gold loan memo card with verifying the bank accounts is on the Petitioner. But, on the other hand, the 1st Petitioner has not adduced any evidence to dispute this document. It is established before the domestic enquiry that the 1st Petitioner was guilty of making false and unauthorised entries in the gold loan memo card and under such circumstances, charge No. 5 also was clearly proved before the domestic enquiry. In this case, the enquiry was conducted in a fair and proper manner and the punishment was imposed for serious misconduct committed by the 1st Petitioner which is just and reasonable. The Respondent/Bank being repository of public trust and cannot carry on their banking business with persons of doubtful integrity and bonafides and depending upon the fraud committed by the 1st Petitioner, severe action has been taken so as to provide suitable deterrent to other employees of the Respondent/Bank. The misconduct committed by the 1st Petitioner is so serious and grave in nature and further, it is the case of loss of confidence on the 1st Petitioner. Therefore, it cannot be said that the enquiry held by the Respondent/Bank and also the punishment imposed by the Respondent/Bank is harsh and also shocking. Therefore, the interference with the punishment at this juncture is not valid.

10. Learned counsel for the Respondent further relied on the rulings reported in JT 1995 8 SC 65 B.C. CHATURVEDI Vs. UNION OF INDIA AND OTHERS wherein the Supreme Court has held that "*Court/Tribunal while exercising the power of judicial review cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of the Court/Tribunal it would appropriately mould the relief, either directing the Disciplinary Authority/Appellate Authority to reconsider the penalty imposed or to shorten the litigation, it may itself in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof. In this case, punishment of dismissal from service to one of compulsory retirement imposed by the Disciplinary Authority, we find the reasoning given by the High Court is wholly unsupportable and the reasons are not relevant nor germane to modify the punishment. In view of the gravity of the misconduct, namely the appellant having been found to be in possession of assets disproportionate to the known source of his income, the interference with the imposition of punishment was wholly unwarranted.*"

Learned counsel for the Respondent next relied on the decision reported in 1999 II LLJ 175 UP STATE ROAD TRANSPORT CORPORATION AND OTHERS Vs. MUSAI RAM AND OTHERS wherein the Supreme Court has held that "*the Court would not sit in appeal over the findings of the Enquiry Officer so long as they were based on uncontroverted material placed before the Enquiry Officer and it cannot be said that these findings are perverse.*" The next ruling relied on by the counsel for the Respondent is JT 1994 1 SC 217 STATE BANK OF INDIA AND OTHERS Vs. SAMARENDRA KISHORE ENDOW & ANOTHER wherein it is held that "*appropriate punishment is within the discretion and judgement of the Disciplinary Authority and Appellate Authority may interfere with the same but not the High Court or Tribunal.*" In the next decision relied on by the counsel for the Respondent is 2000 II LLJ 1395 JANATHA BAZAAR SOUTH KANARA CENTRAL CO-OP. WHOLESALE STORES LTD. & OTHERS Vs. SECRETARY, SAHAKARI NOUKARARA SANGHA & OTHERS, wherein the Supreme Court has held that "*once the act of misappropriation is proved, may be for a small or large amount, there is no question of showing uncalled for sympathy and reinstating the employee in service. Law on this point is well settled..... In view of the proof of misconduct, a necessary consequence will be that management has lost confidence that the workman would truthfully and faithfully carry on his duties and consequently, the Labour Court rightly declined to exercise the power u/s. 11A of I.D. Act to grant relief with minor penalty. In case of proved misappropriation, in our view, there is no question of considering the past record and it is the discretion of the employer to consider the same in appropriate cases but the Labour Court cannot substitute the penalty imposed by the employer in such cases.*" The next decision relied on by the Counsel for the Respondent is 1994 II LLJ 888 KERALA SOLVENT EXTRACTIONS LTD. Vs. A. UNNIKRISHNAN AND ANR. wherein the Supreme Court has held that "*the relief granted by the Courts must be seen to be logical and tenable within the framework of law and should not incur and justify the criticism that the jurisdiction of Courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability. In this case, we have no hesitation to hold that both labour Court and High Court have erred.*" The next judgement relied on by the counsel for the Respondent is 2004 (2) TLNJ 127 MANAGEMENT OF BEST & CROMPTON ENGG. LTD.

Vs. PRESIDING OFFICER II ADDL. LABOUR COURT, MADRAS AND ANOTHER wherein the Division Bench of the Madras High Court has held that *"if a person who had committed misappropriation is reinstated with back wages or otherwise, then it would amount to legalising the illegal acts, committed by the employee, thereby in a way indirectly encouraging that kind of misconduct also giving premium which should not be the role of the Court under the guise of sympathy."* The next judgement relied on by the counsel for the Respondent is 2004 8 SCC 88 DELHI TRANSPORT CORPORATION Vs. SHYAMLAL wherein the Supreme Court has held that *"admittedly the effect of admission regarding guilt as contained in letters dated 13-1-89 and 24-2-89 have not been considered in proper perspective. It is fairly settled position in law that admission is the best piece of evidence against the person making the admission. It is however, open to the person making the admission to show why the admission is not to be acted upon."* Relying on all these decisions, the learned counsel for the Respondent contended that in this case, the 1st Petitioner has admitted that he has done the temporary misappropriation of funds and also admitted that he has paid the amount in subsequent dates, Under such circumstances, it cannot be said that this temporary misappropriation can be pardoned by the Respondent/Management. The Respondent/Bank in this case lost the confidence on the 1st Petitioner and therefore, they have taken the decision to discharge the 1st Petitioner from service and under such circumstances, it cannot be said that the punishment imposed by the Respondent/Bank is shocking and this Court has got power to interfere with the punishment imposed on the Petitioner.

11. I find much force in the contention of the learned counsel for the Respondent because though the Petitioner alleged that the admission made by him in the letter dated 31-5-1999 was obtained by duress, he has not established this fact by any evidence. Under such circumstances, it cannot be said that the finding based upon this admission, the Enquiry Officer has come to a conclusion that the charges framed against the Petitioner has been proved. Though the punishment of discharge is somewhat harsh, since the 1st Petitioner has misappropriated the funds of the Respondent/Bank and the Respondent/Bank has lost confidence on the 1st Petitioner and under such circumstances, this Tribunal cannot interfere with the punishment imposed on the 1st Petitioner. As such, I find this point that the action of the Respondent/Bank in discharging the services of 1st Petitioner for the alleged fraudulent act is legal and justified.

Point No. 2 :

The next point to be decided in this case is to what relief the 2nd and 3rd Petitioner are entitled?

12. Pending this industrial dispute, the 1st Petitioner has died, the 2nd and 3rd Petitioners have been impleaded in this dispute. The 2nd and 3rd Petitioners pray that in case if the Tribunal come to a conclusion that the orders

passed by the Respondent/Management is illegal and not justified, then the back wages of the 1st Petitioner is to be awarded to them. But, in view of my finding that the action taken by the Respondent/Management in discharging the services of the 1st Petitioner is legal and justified, I find the Petitioners 2nd and 3rd are not entitled to any relief. No Costs.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 7th June, 2005).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

For the I Party/Petitioner :

Ex.No.	Date	Description
W1	08-02-01	Xerox copy of the letter from Respondent forwarding therewith copy of enquiry report.
W2	21-03-01	Xerox copy of the letter from Petitioner to Deisciplinary Authority.
W3	08-06-01	Xerox copy of the letter from Respondent to Petitioner.

For the II Party/Management :—

Ex.No.	Date	Description
M1	15-02-99	Xerox copy of the complaint letter of George Williams.
M2	18-02-99	Xerox copy of the the letter from George Williams to Branch Manager.
M3	27-05-99	Xerox copy of the show cause notice issued to Petitioner.
M4	31-05-99	Xerox copy of the explanation given by Petitioner
M5	03-09-99	Xerox copy of the charge memo issued to Petitioner.
M6	23-12-99	Xerox copy of the enquiry proceedings.
M7	07-02-01	Xerox copy of the report of Enquiry Officer.
M8	21-03-01	Xerox copy of the explanation given by Petitioner.
M9	21-06-01	Xerox copy of the proceedings of Disciplinary Authority.
M10	05-07-01	Xerox copy of the orders of Disciplinary Authority.
M11	13-08-01	Xerox copy of the appeal Preferred by Petitioner.
M12	08-09-01	Xerox copy of the proceedings of Appellate Authority.
M13	12-08-02	Xerox copy of the order of Appellate Authority.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4235.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-329/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/299/2003-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4235.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No.329/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/299/2003-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, The 15th July, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 329/2004

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN:

Sri M. Sukumar : I Party/Petitioner

AND

- | | |
|--|-------------------------|
| 1. The Chief General Manager,
State Bank of India,
Chennai. | II Party/
Management |
| 2. The Deputy General Manager,
State Bank of India ZO,
Coimbatore. | |

APPEARANCE:

For the Petitioner : M.r. R. Arumugam,
Advocate.

For the Management : M/s. S. Kanniah,
Advocates.

AWARD

The Central Government, Ministry of Labour vide order No. L-12012/299/2003-IR (B-1) dated 22-03-2004 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the punishment of discharging from services imposed by the management of State Bank of India against Shri M. Sukumar is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 329/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was working as a head messenger in State Bank of India, Pollachi branch and he has served more than 21 years. While so, on 3-08-2002 he was issued with a letter stating that he has committed certain irregularities and disciplinary enquiry was initiated against him. In that enquiry 15 witnesses were examined and 24 documents were marked as exhibits. The domestic enquiry was not fair and proper and reasonable opportunity was not given to the Petitioner. The Enquiry Officer instead of acting as an impartial fact finding authority acted partially in favour of the Respondent/Management. He has allowed the Presenting Officer to introduce new case in the enquiry. He has acted in one sided manner and committed irregularities in conducting the enquiry. After the perverse enquiry, the Enquiry Officer submitted his report holding that certain charges are proved against the Petitioner. The Disciplinary Authority issued a show cause notice dated 18-08-2001 enclosing his order wherein he proposed the punishment of discharge from service and on 1-9-2001 the Disciplinary Authority confirmed his earlier order. Even on the appeal preferred by the Petitioner before Appellate Authority, the Appellate Authority merely confirmed the punishment given by the Disciplinary Authority without giving any reasons. In all the evidences given by the complainants there is no proof or substantial evidence to support the contention of the Respondent/Management. The enquiry Officer arrived at the conclusion as dictated by the Respondent/Management and the finding is perverse and illegal. The order of punishment imposed by the Disciplinary Authority is totally an act of victimisation, biased, one sided and unjustified one. Any how, this Tribunal has got ample powers under section 11A to interfere with the punishment and this Tribunal has to invoke that provision in order to save the life of the person and his family. Hence, for all these reasons, the Petitioner prays that an award may be passed directing the

Respondent to reinstate him in service with continuity of service, back wages and other attendant benefits.

4. As against this, the Respondent/Management in its Counter Statement contented that the Petitioner while working as head messenger in Pollachi branch of Respondent/Bank has committed some serious irregularities and therefore, disciplinary proceedings was initiated against him for the misconduct he has committed and charge sheet dated 3-8-2000 was issued to him framing twelve charges. Since the explanation given by the Petitioner was not satisfactory, the Respondent/Management initiated departmental enquiry. The first charge framed against the Petitioner is that on 21-9-99 the Petitioner has obtained Rs. 5000/- from one B. Venunathan, Neganman, Pollachi Taluk for getting coins from the bank but he did not deliver the coins to him. The 2nd charge framed against him is that he issued a cheque No. 552674 dated 5-1-2000 for Rs. 5000/- favouring Mr. S. Venunathan drawn on his personal account No. 75/99 with Catholic Syrian Bank Ltd. Pollachi towards repayment of amount obtained from him for issue of small coins, which was bounced for want of funds. The third charge is that he borrowed Rs. 2000/- from one Smt. Vanaja Selvaraj, but he has not returned the same to her. The fourth charge is that he borrowed a sum of Rs. 10,000/- on 31-8-99 from Smt. Vijayalakshmi, Pollachi but he has not returned the same to her. The fifth charge is that he has borrowed a sum of Rs. 5,000/- on 11-9-99 and on 5-10-99 a further sum of Rs. 5,000/- from Sri. S. Perumal but he has failed to return the same. The sixth charge is that he has obtained a sum of Rs. 500/- from Sri C. Shanmugaraj for getting fresh notes from the bank, but he did not deliver either fresh notes or the money back to him. The seventh charge is that he has issued withdrawal slip dated 2-1-2000 for Rs. 500/- to Sri Shanmugaraj towards repayment of amount obtained from him for issue of fresh notes which was returned unpaid on 4-1-2000 due to insufficient funds in his account. The 8th charge is that he has obtained Rs. 1500/- from Sri R. Krishnan for getting small coins from the bank and he has failed to deliver the same to him. 9th charge is that he has collected Rs. 1000/- from Mr. S. Velusamy for remittance to his S.B account but he did not remit the same in his account. The 10th charge is that he has collected Rs. 300/- from Mr. P. Alagar or Neganman under the guise of security medical certificate for availing medical loan from the branch. The 11th charge is that he has borrowed Rs. 3000/- from Sri A. Radhakrishnan of Pollachi but he has failed to repay the same. The 12th charge is that by misusing his position in the bank he was instrumental in keeping many discounted cheques of State Bank of India Industrial Finance Branch, Coimbatore which was resulted in delayed payment of those instruments at Pollachi branch. In the enquiry the Petitioner has taken part but he has neither produced any document nor examined any witness in support of his claim. Even though several opportunities

were given to the Petitioner he has failed even to cross examine certain material witnesses of the Respondent/Bank and therefore, after considering the evidences, the Enquiry Officer submitted his report holding eight charges out of 12 were proved against the Petitioner. The Petitioner has participated in the personal hearing also and the Disciplinary Authority passed an order imposing the punishment of discharge from service. The Appellate Authority has also given sufficient opportunity to the Petitioner before confirming the order of Disciplinary Authority. It is false to allege that the Petitioner's service was upto the mark. The service of the Petitioner was marred with number of disciplinary proceedings culminating in punishment of censure, stoppage of one increment and also awarded warning at various stages due to the misconduct committed by him from time to time. The Respondent/Bank has conducted the domestic enquiry in a just and proper way and the Petitioner participated in that enquiry and he was given sufficient opportunity to defend his case. When they have taken part in the proceedings, the Petitioner has no right to say that the proceedings was not conducted in a fair manner. No new case was introduced as claimed by the Petitioner. The Disciplinary Authority passed an order of discharge from service considering the gravity of misconduct committed after complying with principles of natural justice and therefore, the Petitioner is not in any way prejudiced by the service of the order through branch of Respondent/Bank. The Petitioner has admitted the borrowal of amount of Rs. 5000/- from Mr. Venunathan before Appellate Authority and the claim of the Petitioner in this case is only an afterthought. Failure to initiate civil or criminal proceedings against the Petitioner will not prevent the Respondent/Bank from initiating disciplinary proceedings for the misconducts committed by him. The document produced reveals that the Petitioner by misusing his capacity as an employee of the bank has solicited the customer of the bank to part with money and did not return the same despite demands. All the complainants were examined in domestic enquiry and no cross examination was done by the Petitioner. Withdrawal slip was issued by the Petitioner knowing fully well that he has no sufficient funds in his account. Therefore, the Petitioner was given enough opportunity to prove his innocence. The Petitioner misused his position as an employee of the bank and he has not only influenced customers of the bank by obtaining money and also defrauded them and thereby causing damage to the Respondent/Bank. The Petitioner has not only incurred debts to an extent considered by the bank as excessive but also acted prejudicial to the interest of the bank by obtaining money by making use of his employment and misappropriating the amount. It is false to allege that there was violation of principles of natural justice. The punishment imposed on the Petitioner is fair, reasonable and commensurate with the gravity and hence, the allegations of the Petitioner are false. Hence,

for all these reasons, the Respondent prays to dismiss the claim with costs.

5. In these circumstances, the points for my consideration are—

(i) "Whether the punishment of discharge from service imposed by Respondent/Management against the Petitioner is legal and justified?"

(ii) To what relief, the Petitioner is entitled?"

Point No. 1 :

6. It is an admitted case that Charge Sheet was issued to the Petitioner on the allegation that he has committed certain irregularities. The Charge Sheet dated 3-8-2002 under Ex. M1 contains 12 charges and out of these twelve charges, the Enquiry Officer has held that eight charges have been proved against the Petitioner. Though the Petitioner alleged in his claim statement that no opportunity was given to him to defend his case and the findings of the Enquiry Officer is perverse and illegal, before this Tribunal it is not established as to how the enquiry is not fair and proper. On the other hand, it is established by the Respondent/Management that full opportunity was given to the Petitioner at every stage and therefore, the allegation that principles of natural justice has not been followed or violated is not a true statement. Therefore, we have to see whether the Petitioner has established his contention that the punishment imposed on him is perverse or not commensurate with the charge framed against him and whether he is entitled to invoke the discretionary jurisdiction of this Tribunal under section 11A of the I.D. Act.

7. Before this Tribunal, no oral evidence was adduced either by Petitioner or Respondent and further, the Petitioner has not produced any document on his side. The Respondent produced Ex.M1 to M12 which are the documents of enquiry proceedings.

8. Learned counsel for the Petitioner alleged that Enquiry Officer has allowed the management's representative/ Presenting Officer to put leading questions to witnesses to cover fabricated false charges even in spite of protest made by the Petitioner. But, he has not established before this Tribunal what are the questions put by the Presenting Officer were leading questions and how the Petitioner was prejudiced by this. Learned Counsel further contended that the Enquiry Officer allowed the Presenting Officer to introduce a new case in the enquiry while examining one Mr. Radhakrishnan and the Enquiry Officer acted in a one sided manner and thereby committed irregularities in conducting the enquiry.

9. On a perusal of enquiry report, I find there is no irregularity in the conduct of enquiry and no new case was introduced as alleged by the Petitioner and Mr. Radhakrishnan who was examined as a witness has clearly stated that the Petitioner borrowed a sum of Rs. 3000 from

him and he has failed to repay the said sum. It is further alleged on behalf of the Petitioner that without considering the submissions made by the Petitioner, the Disciplinary Authority served show cause notice dated 18-8-2001 on him with a proposed punishment of discharge from service. But, it is not established before this Tribunal that in what way the Disciplinary Authority has not considered his submissions, it is one thing to say that he has not accepted the submissions made by the Petitioner and it is another thing to say that he has rejected the contention of the Petitioner.

10. The next contention of the counsel for the Petitioner is that Appellate Authority without applying his mind has given the order in a cryptic way and confirmed the punishment given by the Disciplinary Authority. As against this, learned counsel for the Respondent contended that Appellate Authority after giving sufficient opportunity to prove the claim of the Petitioner, he has come to the conclusion to confirm the order of the Disciplinary Authority. No doubt, he has not passed an elaborate order but, it cannot be said that he has not considered the submissions made by the Petitioner. It is the further contention of the Petitioner that he has been wrongfully terminated from service violating principles of natural justice. But, he has not shown how the order passed by the Disciplinary Authority is in violation of principles of natural justice. In all the charges framed against the Petitioner, the complainants namely Mr. Venunathan, Mrs. Vanaja Selvakumar, Mrs. Vijayalakshmi, Mr. S. Perumal, Mr. C. Shanmugaraj, Sri R.Krishnan, Sri S.Velusamy, Mr. P. Alagar and Sri C. Radhakrishnan were examined and the Petitioner has not cross-examined the said witnesses properly. In all these cases, the Petitioner's representative has asked whether any oral evidence or documentary evidence supports the case of the allegations and anybody witnessed the payment of money to the Petitioner. But, it is established by the Respondent/Bank in the enquiry that he has borrowed the money from the customers of the bank on the allegation that he will pay coins and new notes to them and he has not paid the coins or new notes to them and he has cheated the customers and further, he has given withdrawal slips or cheques or letter to vouch the amount borrowed from customers on the allegation that he will repay the said sum within a short period. But in all the cases, he has not repaid the amount and he has thereby cheated the customers and he has misused his capacity as an employee of the bank and has solicited the customers of the bank to part with money and did not return the money despite several demands.

11. Then again, the learned counsel for the Petitioner contended that punishment imposed by the Disciplinary Authority is not commensurate with the charge framed against the petitioner and the punishment imposed on him is totally an act of victimization and unfair

one and hence this Tribunal has to invoke discretionary jurisdiction under section 11A of the I.D. Act to interfere with the punishment imposed on the Petitioner.

12. But, on the other hand, the learned counsel for the Respondent contended that the appropriate punishment is within discretion and judgment of the Disciplinary Authority, no doubt, the Appellate Authority may interfere with the same, but not the reviewing authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern with and the Tribunal also cannot interfere with the penalty if the conclusion of the Enquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter. He relied on the rulings reported in JT 1994 (1) SC 217 STATE BANK OF INDIA & ORS. Vs SAMARENDRA KISHORE ENDOW & ANOTHER. Learned Counsel for the Respondent further relied on the rulings reported in JT 1995 (8) SC 65 UNION OF INDIA & ANOTHER Vs. B.C. CHATURVEDI wherein the Supreme Court has held that *"in a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. The Tribunal has to look into whether the findings or conclusion are based on some evidence and the authority entrusted with power to hold enquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. It is only important that findings must be based on some evidence and neither the technical rules of Evidence Act nor proof of fact or evidence as defined therein apply to the disciplinary proceedings. Further, the learned Counsel for the Respondent relied on the rulings reported in 2004 (2) TNLJ 127 THE MANAGEMENT OF BEST & CROMPTON ENGG. LTD. Vs. PRESIDING OFFICER, II ADDITIONAL LABOUR COURT, MADRAS AND ANOTHER wherein the Division Bench of the Madras High Court has held that *"in a company or in an institution between the employer and employee, there must be confidence and trust for its well-being and positive growth. This is based upon the confidence and trust mutually. If that confidence is shaken, breached by the conduct of workman or employee by committing misappropriation, then no useful purpose would be served by retaining that man in the company incurring loss or inviting problems always, which is not desirable for the healthy growth of a company. In the same manner, it is also not desirable to direct the management to reinstate such a person who had committed dishonest act, defrauding the company, making financial loss by misappropriation invoking the power conferred under section 11A of the Act"* and the Supreme Court deprecated this as misplaced sympathy and relying on all these decisions, learned counsel for the Respondent contended that the Respondent/Bank has lost confidence on the Petitioner's attitude and under such*

circumstances, it cannot be said that this Tribunal can invoke discretionary jurisdiction given under section 11A of the I.D. Act. He further argued that scope of judicial review would remain limited and interference was not permissible unless one or the other of following conditions was satisfied namely—the order was contrary to law or relevant factors were not considered or irrelevant factors were considered or the decision was one which no reasonable person could have taken. In this case, it was not shown before this Tribunal under what circumstances, the order passed by the Disciplinary Authority is contrary to law or the decision in which no reasonable person could have taken. Under such circumstances, it cannot be said that the order passed by the Disciplinary Authority and Appellate Authority are perverse and therefore, this Tribunal need any interference with the punishment imposed on the Petitioner.

13. I find much force in the contention of the learned counsel for the Respondent because in this case, it is established by the Respondent/Bank through oral and documentary evidence that the Petitioner has misused his position as an employee of the Respondent/Bank and committed irregularities and he has solicited the customers of the bank to part with money and did not return the same despite several demands and he has also issued withdrawal slips to the customers knowing fully well that he has no sufficient funds in his account and thus, he has also misappropriated the customers money and thereby caused damage to the reputation of the bank. Therefore, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

14. In view of my foregoing findings that the punishment of discharge from service imposed by the Respondent/Bank against the Petitioner is legal and justified, I find the Petitioner is not entitled to any relief. No Costs,

15. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 15th July, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Marked :

For the I Party/Petitioner : Nil

For the II Party/Management :

Ex No.	Date	Description
M1	03-08-00	Xerox copy of the Charge Sheet issued to Petitioner.
M2	13-11-00	Xerox copy of the enquiry notice issued to Petitioner.
M3	Nil	Xerox copy of the findings of the Enquiry Officer.
M4	23-05-01	Xerox copy of the letter from Respondent to Petitioner enclosing Copy of Findings of Enquiry Officer.
M5	16-07-01	Xerox copy of the explanation given by Petitioner before Disciplinary Authority.
M6	18-08-01	Xerox copy of the 2nd-show cause notice issued to Petitioner.
M7	31-08-01	Xerox copy of the proceedings of personal hearing before Disciplinary Authority.
M8	01-09-01	Xerox copy of the order of Disciplinary Authority.
M9	04-12-01	Xerox copy of the appeal preferred by Petitioner.
M10	04-12-01	Xerox copy of the minutes of personal hearing before Appellate Authority.
M11	21-12-01	Xerox copy of the order of the Appellate Authority.
M12	Nil	Xerox copy of the enquiry proceedings.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4236.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्टग्रेल कोच फैक्टरी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-287/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-41012/221/2003-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4236.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 287/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Integral Coach Factory and their workman, which was received by the Central Government on 17-10-2005.

[No. L-41012/221/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Wednesday, The 18th May, 2005

PRESENT :

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 287/2004

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Integral Coach Factory, Chennai and their workmen)

BETWEEN :

Sri B. Srinivasan : I Party/Petitioner

AND

General Manager, : II Party/Management
Integral Coach Factory,
Chennai

APPEARANCES :

For the Petitioner : M/s V. Prakash
K. Ramkumar,
P. Chandrasekaran,
AdvocatesFor the Management : Mr. VSR Hanu Babu Koka,
Advocate

AWARD

The Central Government, Ministry of Labour vide order No. L-41012/221/2003-IR (B-I) dated 19-12-2003 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the action of the management of Integral Coach Factory in imposing the penalty of removal from service of Shri B. Srinivasan with effect from 1-10-96 is justified? If not, what relief he is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 287/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner had joined the services of the Respondent factory on 31-7-93 as Khalasi in body

assembling shop. The Petitioner due to ill health had to take continuous treatment in native medicine and was not in a position to report for work or respond to the letters from the Respondent factory. In the disciplinary proceedings that was taken against the Petitioner, the Disciplinary Authority had imposed the punishment of removal from service of the Petitioner w.e.f. 1-10-96 *ex-parte*. The Petitioner has preferred an appeal, but it was rejected. Again, the Petitioner has given a revision before the revision authorities and it was also rejected. All his efforts and representations to higher officials have gone in vein. Hence, he has raised this industrial dispute before the conciliating authority and on its failure, the matter was referred to this Tribunal. The Petitioner alleged that the impugned order or removal of the Petitioner from service w.e.f. 1-10-96 is in violation of principles of natural justice and opposed to Disciplinary and Appeal rules applicable to railway employees. Further, the removal of Petitioner from service is a punishment disproportionate to the misconduct alleged against the Petitioner. None of the authorities have gone into the question whether the absence from duty on the part of the Petitioner was wilful or whether the Petitioner was unable to attend the duty because of health reason and the Appellate Authority has not applied his mind to the facts of this case. Many other employees who have been similarly proceeded against absence from duty have been thereafter taken back on duty or reinstated in service. Hence, the Petitioner prays this Tribunal to pass an award directing the Respondent to reinstate the Petitioner in service with back wages, continuity of service and all other consequential benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner was appointed as Khalasi w.e.f. 31-7-93. On 2-4-96 while working in shop No. 21, he was issued with a major charge memo for his unauthorised absence cumulatively for 187 days between 18-5-95 and 31-12-95. Though sufficient opportunity was given to the Petitioner to reply and represent his case, the Petitioner failed to submit any reply or attend the enquiry. Therefore, the Enquiry Officer proceeded *ex-parte* and on his findings, the Disciplinary Authority issued penalty or removal from service w.e.f. 1-10-96. The Petitioner preferred an appeal to the Deputy Chief Mechanical Engineer on 30-1-97 which was rejected. Again, a revision petition was submitted by the Petitioner on 27-2-97 which was also turned down. Thereafter, the Petitioner has given a mercy appeal to the Respondent/Management and that was also dismissed on consideration. The removal of the Petitioner is in accordance with the procedure prescribed under Discipline and Appeal Rules, 1968 applicable to all Railway employees. All rules were diligently followed giving all possible opportunity to the Petitioner to defend and only after thorough enquiry, the Petitioner being found guilty of charges was removed from service and therefore, there is no violation of principles of natural justice. It cannot be

said the punishment is disproportionate to the misconduct of the Petitioner. All the authorities have carefully gone into the question and therefore, it cannot be said that they have not applied their mind on the representation made by the Petitioner. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my determination are—

- (i) "Whether the action of the Respondent/Management in imposing the penalty of removal from service w.e.f. 1-10-96 on the Petitioner is justified?"
- (ii) To what relief the Petitioner is entitled?"

Point No. 1:

6. In this case, the Petitioner has examined himself as WW1 and produced documents Ex. W1 to W16 and on the side of the Respondent one Mr. G. Marimuthu, Senior Personnel Officer was examined as MW1 and on their side Ex. M1 to M13 were marked. In his evidence, the Petitioner has admitted that he has given his address to the Respondent/Management as 495, 2nd Street, Koratur, Chennai-600080 and he has also admitted that all the letters have been received by him in the said address. Though he has stated that he was not in unauthorised absence from duty from 18-5-95 to 31-12-95 in his cross examination, he has admitted that in Ex. W1 namely the appeal preferred against the punishment, he has admitted that he was absent for duty from 18-5-95 to till date namely 30-1-97. He has also admitted in the cross examination that he has not obtained any prior permission before going on leave. On the side of the Respondent, the Senior Personnel Officer has clearly stated that the Petitioner was in unauthorised absence for more than 187 days from 18-5-95 to 31-12-95. In the departmental enquiry, charge memo was sent to his last known residential address by Registered Post with acknowledgement due, but it was returned undelivered by the postal authorities with an endorsement 'left', copy of which is marked as Ex. M2. Thereafter, the Enquiry Officer was appointed to enquire into the charges framed against the Petitioner under Ex. M3. Even the Enquiry Officer's notice with regard to date of enquiry was also returned unserved which is evident from Ex. M4 and M7. Then the Enquiry Officer set him *ex-parte* and after considering the merits in the case has submitted a report to the Disciplinary Authority and the Disciplinary Authority after going through the records has imposed the punishment of dismissal from service. He further stated that the appeal and Revision filed against the orders have been rejected by the concerned authorities on merits. It is further evident that the removal of the Petitioner from service is in accordance with the procedure prescribed by the Railway Servants (Discipline & Appeal) Rules.

7. On behalf of the Petitioner it is contended that only due to his ill health, the Petitioner had to take

treatment in native medicine and therefore, he was not in a position to report for duty either mentally or physically. But the Respondent/Management without following the principles of natural justice arbitrarily imposed the punishment of removal from service for the alleged misconduct of absence from duty for 187 days. Learned counsel for the Petitioner contended that the departmental enquiry alleged to have been conducted against the Petitioner has not followed the principles of natural justice. Though the Respondent alleged that the charge sheet sent to the Petitioner to the last known address was returned by the registered post, the Respondent/Management has not taken any alternative steps to serve the notice on the Petitioner. It is the proper course when the registered notices come back unserved, the Respondent/Management has to publish the notice in the name of the Petitioner in newspaper along with charges framed against him. But, in this case, the Respondent has not taken any steps towards this and therefore, there is no bonafide on the part of the Respondent/Management in conducting the departmental enquiry ex-parte against the Petitioner. Therefore, this is in violation of principles of natural justice. It is further contended that the findings of the Enquiry Officer are perverse. It is also the contention of the learned counsel for the Petitioner that in this case, the burden of proving the fact that the Petitioner was in unauthorised absence for 187 days is upon the Respondent/Management. But, the Respondent/Management failed to prove the charges alleged against the Petitioner. Further, the management was not even represented by the Presenting Officer to substantiate the charges alleged against the Petitioner. Neither any witness nor any documents were produced by the Respondent/Management in the enquiry to establish the charges. In the memo of charge itself, the Respondent/Management has clearly stated that the charges against the Petitioner were not framed either based on any documents or based on any witness. Therefore, in the absence of any documentary evidence to substantiate the charges levelled against the Petitioner, it cannot be said that the charges framed against the Petitioner have been proved. Mere absence of the Petitioner or his refusal to participate in the enquiry cannot be regarded as proof of charges. Therefore, this Tribunal has to come to a conclusion that the charge framed against the Petitioner has not been proved and the findings of the Enquiry Officer is perverse. Even the punishment of removal from service imposed on the Petitioner is not in accordance with the Railway Servants (Discipline & Appeal) Rules. It is admitted that the punishment of removal from service is a major penalty and therefore, the Respondent/Management has to follow the procedure laid down under the Railway Servants (Discipline & Appeal) Rules. But, in this case no Presenting Officer was appointed and no documents was provided to the Petitioner, no evidence was produced before the Enquiry Officer and no witness was examined,

hence, the report of the Enquiry Officer does not contain the assessment in evidence in respect of the articles of charges and findings on each article of charges and no valid reason was given by the Enquiry Officer under Rule 9 sub-rule 25(i)(c) & (d) of the said rules. Under such circumstances, it cannot be said that the charge framed against the Petitioner has been proved and hence, the findings are perverse and illegal. It is the further contention of the learned counsel for the Petitioner that the Respondent/Management has not considered the past record of the Petitioner and also the gravity of offence. It is a well settled law that the Disciplinary Authority while determine the quantum of punishment, the power has to be exercised objectively with due application of mind to various relevant circumstances such as past conduct, total length of service, gravity of offence and materials available to point out the guilt etc. But, in this case, the Disciplinary Authority has not considered the past record of the Petitioner and also the gravity of the offence and in such circumstances, it cannot be said that the punishment imposed on the Petitioner is proportionate to the charges alleged against him. Hence, for all these reasons the Tribunal has to come to a conclusion that the order passed by the Respondent/Management is not justified in such circumstances.

8. But, as against this learned counsel for the Respondent contended that the removal of the 1 Party for the charges framed against him is in accordance with the procedure prescribed under Discipline & Appeal Rules, 1968 applicable to all Railway employees. In this case, the authorities have given all possible opportunities to the Petitioner to defend his case and only after a thorough enquiry, relying on the proof that the Petitioner was on unauthorised absence, they have come to a conclusion that the charge framed against the Petitioner has been proved and therefore, it cannot be said that there is a violation of principles of natural justice. He further contended that from the documents Ex. M4 to M7 it is clearly proved that the memo of charge and also the notice to the Petitioner sent to the last known address of the Petitioner were returned with the postal endorsement 'left' and the authorities have no other go except to declare him as ex-parte. Further, even though the Petitioner's side contended that no notice was sent through in newspaper publication, it is not contemplated under Discipline & Appeal Rules, 1968 to send such notice in case of ex-parte. Further, there is no bar for the authorities to proceed in these circumstances as ex-parte. Learned counsel for the Respondent contended that it is not the case of the Petitioner that the absence from 18-5-95 to 31-12-95 is an authorised absence or leave. It is also admitted by the Petitioner even in his evidence and also under Ex. W1 that his absence was unauthorised and he has not obtained any permission from the higher authorities before going on leave. Under such circumstances, it cannot be said that the charge framed against the Petitioner has not been

proved. Learned counsel for the Respondent contended that the quantum of punishment imposed on the Petitioner is prerogative of the Disciplinary Authority relying on the enquiry and also the evidence and hence it cannot be said that the punishment is disproportionate to the misconduct alleged against the Petitioner. If really, the Petitioner was absent from duty due to his illness, he has to establish the same before the domestic enquiry. Further, there is not documentary evidence to show that he was affected by mental illness. It is admitted by the Petitioner that the Respondent/Management has got an hospital which is equipped with the state of art equipments and if really the Petitioner was suffering from mental illness, he must have obtained sick certificate permitting the Petitioner to be on leave not inviting the action under Railway Servants (Discipline & Appeal) Rules. The Petitioner having remained absent wilfully without any information and submitting an vague reason after being removed from service only establishes that he was wilfully absented from duty and the allegation of mental illness is only an afterthought. In this case, the Disciplinary Authority after carefully and diligently gone into the question whether the Petitioner was in unauthorised absence from 18-5-95 to 31-12-95 has come to a conclusion that the charges framed against the Petitioner have been proved. Though it is alleged that there was no document filed before the Enquiry Officer, it is established before the domestic enquiry that the Petitioner was absent and it was unauthorised absence. Further, it was also admitted by the Petitioner even in the appeal memo and under such circumstances, the contention of the Petitioner cannot be upheld.

9. I find much force in the contention of the learned counsel for the Respondent because though the Petitioner alleged that the charges framed against him have not been proved in the domestic enquiry, in this case, it is not dispute that the Petitioner was in unauthorised absence from 18-5-1995 to 31-12-1995. Further, even at the time of appeal, he was in continuous absence and under such circumstances, it cannot be said that the enquiry held against the Petitioner was not in accordance with Discipline & Appeal Rules. Further, it cannot be said that there is violation of principles of natural justice. Sufficient opportunity was given to the Petitioner to defend his case and since the Petitioner was not in the given address namely the last known address given to the Respondent/Management, notices were not served on him and on that score, it cannot be said that there was violation of principles of natural justice. Under such circumstances, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case to what relief, the Petitioner is entitled ?

10. In view of my foregoing findings that the imposition of penalty of removal from service on the

Petitioner w.e.f. 1-10-96 is justified, I find the Petitioner is not entitled to any relief. No costs.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th May, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Workman : WW1 Sri B. Srinivasan

For the I Party/Management : MW1 Sri G. Marimuthu

Documents Marked :

For the I Party/Petitioner :

Ex No.	Date	Description
W1	30-01-97	Xerox copy of the appeal preferred by the Petitioner.
W2	17-02-97	Xerox copy of the order of Appellate Authority.
W3	27-02-97	Xerox copy of the revision petition preferred by Petitioner.
W4	11-03-97	Xerox copy of the order of revising authority.
W5	03-04-97	Xerox copy of the appeal made by Petitioner to General Manager of Respondent/Management.
W6	01-07-97	Xerox copy of the order passed by General Manager of Respondent/Management.

For the II Party/Petitioner :

Ex No.	Date	Description
M1	02-04-96	Xerox copy of the memo charge sheet.
M2	20-04-96	Xerox copy of the returned cover/ack. Card.
M3	13-05-96	Xerox copy of the order of Disciplinary Authority.
M4	26-06-96	Xerox copy of the notice sent to Petitioner by Enquiry Officer.
M5	26-06-96	Xerox copy of the returned cover/ack. Card.
M6	05-07-96	Xerox copy of the inquiry advice.
M7	09-07-96	Xerox copy of the returned cover/ack. Card.
M8	31-08-96	Xerox copy of the enquiry report.
M9	08-08-96	Xerox copy of the letter from Disciplinary Authority To Petitioner enclosing enquiry report.
M10	08-08-96	Xerox copy of the returned cover/ack. Card.
M11	13-09-96	Xerox copy of the office note.

M12 01-10-96 Xerox copy of the penalty advice.
 M13 04-10-96 Xerox copy of the returned cover/ack.
 Card.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4237.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-31/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/234/2002-आई आर(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 18th October, 2005

S.O. 4237.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No.31/2003) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 17-10-2005.

[No. L-12012/234/2002-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 17th June, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 31/2003

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section (2 A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen).

BETWEEN:

Smt. S. Chinnaponnu : I Party/
Petitioner

AND

The Chief General Manager,
State Bank of India. II Party/
Chennai. Management

APPEARANCE:

For the Petitioner : M/s. T. Ramkumar
Advocates

For the Management : M/s. K. S. Sundar,
Advocates

AWARD

The Central Government, Ministry of Labour *vide* order No. L-12012/234/2002-IR(B-I) dated 23-01-2003 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is -

“Whether the termination of Smt. S. Chinnaponnu, Sweeper by the management of State Bank of India is justified and whether the workman eligible for any compensation under Section 25F of the Industrial Disputes Act, 1947? If so, what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 31/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The petitioner was initially engaged by the Respondent/Management from the year 1982 as a sweeper on leave vacancy and she was assigned the work whenever the permanent sweepers went on leave. Subsequently, when the permanent workers were transferred to other branches, the Petitioner was orally appointed by the Respondent/Management in the year 1992. The Respondent/Management also utilised the services of the Petitioner for various other jobs like bringing water, table cleaning, serving of tea/coffee to the staff of Respondent/Management, washing vessels, taking files from one Section to another, going shops for making purchases and for other works allotted by the staff of the Respondent/Management. Initially, she was paid Rs. 15 per day as wages and subsequently it was enhanced to Rs. 80 per day. The Petitioner worked in the Respondent/Management continuously without any break. Even though the Petitioner worked continuously the Respondent/Management failed to regularise her service. While so, on 9-6-2001 the services of the Petitioner was arbitrarily terminated by the Respondent/Management on the ground that job of sweeping and scavenging would thereafter be done by contract labour engaged through contractor. No notice or no compensation was paid to the Petitioner. Even though oral representations were made, the same had of no avail. The termination of the Petitioner from service is illegal, arbitrary and unconstitutional. The Petitioner worked under the Respondent continuously

without any break and by virtue of having worked continuously for over 480 days in a period of two consecutive years the Petitioner is entitled to be absorbed in permanent service in accordance with law. Since the Respondent/management has not complied with the mandatory provisions under I.D. Act, termination is void ab initio. It is also against the provisions of Section 5F of Schedule V of Industrial Disputes Act. Since the Respondent/ Management has employed the Petitioner as temporary and continued her for long years with the object of denying the status of permanent workman, which is an unfair labour practice. Hence, for all these reasons, the Petitioner prays to re-instate her in service and regularise her services and pay all consequential benefits including seniority and back wages.

4. As against this, the Respondent/Management in its Counter Statement contended that the Petitioner was only a casual daily wage and she worked against leave vacancies in a capacity as sweeper. There is no scope for sweeper to work for full time in the Gopalapuram branch and she has worked for two hours in every day. As there was no regular appointment, there was no question of termination. It is false to allege that the Petitioner was cleaning table, washing vessels, taking files going to shop etc. It is also false to allege that the Petitioner was employed continuously without any break. This Respondent was engaging temporary employees due to business exigencies for the performance of duties in the subordinate cadre. The temporary employees/casuals were claiming permanent absorption and their causes were espoused by State Bank of India Staff Federation resulting in five settlements. In terms thereof, the temporary and casual employees were to be considered for permanent absorption as per eligibility along with similarly placed other casual employees. As per the above settlements, the temporary employees were to be wait listed and appointed against the vacancies. Accordingly for the zone of Chennai 744 candidates were wait listed under the category of temporary employees and out of them 357 were appointed and the remaining 387 wait listed candidates were not appointed as there were not vacancies and hence the wait list also lapsed. As per clause 10 of the Settlement dated 17-11-87 only the wait listed candidates should be engaged against leave vacancies. The Petitioner who was awaiting consideration for being wait listed as daily wage became eligible for being engaged and she was engaged as against leave vacancies and the temporary employees who were senior to the Petitioner failed to respond, the Petitioner was engaged by Gopalapuram branch. Since the Petitioner was appointed as per the terms of the settlement, the case of the Petitioner is not similar to workmen who worked for 240 days against regular vacancy in a continuous block of 12 calendar months. The settlements entered into by State Bank of India Staff federation were bonafide and was only practical solution and is binding on the Petitioner. The

Petitioner has estopped from questioning the settlements directly or indirectly and her claim is liable to be rejected. Under such circumstances, there is no question of any denial of employment and hence, the Petitioner is not entitled to any relief. Hence, for all these reasons, the Respondents pray that the claim of the Petitioner may be dismissed with costs.

5. In such circumstances, the points for my determination are —

- (i) "Whether the termination of Petitioner from service by the Respondent/Management is justified and whether the Petitioner is eligible for any compensation under Section 25F of the Industrial Disputes Act?"
- (ii) To what relief the Petitioner is entitled?"

Point No. 1 :

6. The Petitioner's contention in this case is that she was initially engaged by the Respondent as a sweeper on leave vacancy and subsequently, when the permanent workers were transferred to other branches, she was orally appointed in the Respondent/Bank in the year 1992 and she has worked in the Respondent/Management for various other jobs namely bringing water, table cleaning, serving of tea/coffee to the staff of Respondent/Management, washing vessels, taking files one section to another, going shops for making purchases and for other works allotted by the staff of the Respondent/Management. It is her further contention that except Sundays she has worked in all the days of week. While so, on 9-6-2001 she was arbitrarily terminated from service by the Respondent/Bank and therefore, the termination is illegal, arbitrary and invalid.

7. On the other hand, the contention of the Respondent/Management is that the Petitioner has worked only as a casual daily wage on need basis and she worked on leave vacancy in her capacity as sweeper and there is no scope for sweeper to work for full time in that branch and she has worked for two hours every day for sweeping. Since there was no regular appointment, there was no question of termination. The allegation that she has cleaned the tables, washing vessels and taking files are all false. There is no scope for her to do such work in the Respondent/Bank. It was also false to allege that she was engaged continuously without any break.

8. In order to establish that the Petitioner has worked continuously for more than 240 days in a continuous period of 12 calendar months, the Petitioner filed a petition for production of documents from the custody of the Respondent/Management. The Respondent produced the petty cash vouchers and from the petty cash vouchers, the Petitioner has prepared a statement and the statement was marked as Ex. W1. Learned counsel for the Petitioner

contended that from Ex. W1 it is clear that the Petitioner has worked for more than 240 days in the years 1998, 1999 and 2000 and also worked for more than 240 days in a continuous period of 12 calendar months preceding the date of termination of her service w.e.f. 10-6-2001. On behalf of the Petitioner, it is further alleged that even though the Petitioner has worked as a casual temporary sweeper, it is admitted by the management witness, MW1 in the cross examination that from the vouchers produced it is clear that they have given payment of wages for supply of tea/coffee and further the second witness of management MW2 also admitted that casual employees were engaged for simple work like purchasing of tea/coffee and other petty works. Thus, though it is alleged that the Petitioner has worked only for two hours, from the vouchers produced by the Respondent, it is clear that the Petitioner has been paid wages for bringing tea/coffee to the staff members of the Respondent/Bank. Under such circumstances, it cannot be said that the Petitioner was working only as a casual employee and part time employee of the Respondent / Bank. Learned counsel for the Petitioner further contended that since the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months, she is entitled to the benefits under the provisions of Section 25F of the I.D. Act and before terminating the services of the Petitioner, as per mandatory provisions, notice of compensation is to be issued. But since the Respondent/Management has not followed the mandatory provisions, the termination of the Petitioner is illegal, void ab initio and as such the Petitioner is to be reinstated in the services of the Respondent/Management.

9. As against this, learned counsel for the Respondent contended that the Respondent/Bank was engaging temporary employees due to business exigencies for the performance of duties in subordinate cadre. Such engagements were prevailing in the Respondent/Bank from the year 1970 onwards and thus, the temporary employees/casuals were claiming permanent absorption and their causes were espoused by SBI Staff Federation resulting in five settlements, and the first two were on 17-11-87 and 16-7-88 and the third settlement relates to casuals or daily wagers dated 27-10-99 and the fourth and fifth settlements were executed on 9-1-91 and 9-6-95. In terms thereof, the temporary and casual employees were to be considered for permanent absorption as per their eligibility along with similarly placed other temporary and casual employees. The Petitioner applied under the aforesaid settlements and her claim for wait list was pending along with other daily wagers for appointment under the category of daily wager and as per the above settlements, the temporary employees were to be waitlisted and appointed against the vacancies upto the year 1994 and subsequently against the vacancies of 1995-96. Accordingly, for the Zone of Chennai, 744 candidates were

waitlisted under the category of temporary employees and out of them 357 were appointed and remaining 387 wait-listed candidates were not appointed, as there was no vacancy and subsequently, the wait list also lapsed. Therefore, the Petitioner is not entitled to claim any benefits. Further, as per clause 10 of the settlement dated 17-11-87 only the waitlisted candidates should be engaged against leave vacancies and the said provision was extended to the case of the Petitioner. The Petitioner can claim her rights only under settlements and the case of the Petitioner is not similar to workmen, who had worked for 240 days in regular vacancy in a continuous block of 12 calendar months. When the appointments of the State Bank of India are regulated by statutory rules, the Petitioner who was appointed by back door entry cannot claim any benefit. The Petitioner was not appointed to the post in accordance with the rules but was engaged on the basis of need of work. She was working as temporary employee on daily wages. In these circumstances, her disengagement from service cannot be considered to be retrenchment under I.D. Act. The concept of retrenchment cannot be stretched as to cover the case of the Petitioner. Further, in this case, the Petitioner prayed for regularisation in permanent post. But, it is well settled that regularisation or absorption is not a mode of recruitment. An appointment to the permanent service must be made either in terms of recruitment rules or by transfer or by promotion and for the aforementioned purpose, there must exist a vacancy which is to be filled up. If there is no permanent vacancy or does not exist any sanctioned post, the question of filling up of post in terms of recruitment rules would not arise at all. It is also well settled that a person cannot be permitted to appoint back door and then claim permanency in service. Further, it is also well settled even in case where the workman has completed 240 days his services cannot be terminated although without following the provisions under section 25F of I.D. Act and the same by itself does not create any right on the concerned workman to claim permanent absorption in service. Further, he relied on the rulings reported in 1994 II LLJ 977 MADHYAMIK SIKSHA PARISHAD U.P. Vs. A. K. MISRA wherein the Apex Court has further held that *mere prolong or continued service does not ripen into permanent or substantive status* and therefore, the Petitioner who was engaged by the Respondent/Bank after five settlements aforesaid cannot claim any benefits under I.D. Act alleging that she has completed 240 days in a continuous period of 12 months preceding her termination.

10. But, as against this, the learned counsel for the Petitioner further contended that the Petitioner is not a member of State Bank of India Staff Federation. Even though the Respondent alleged that there are five settlements entered into between the State Bank of India management and SBI Staff Federation, since the Petitioner is not a member either in the federation or in union, it

cannot be said that the said settlements are binding on the Petitioner. Any how, even assuming for argument sake without conceding that settlements are binding on the Petitioner, it cannot be said that the settlements override the provisions of Industrial Law. When the Petitioner has established before this Tribunal that she has completed 240 days in a continuous period of 12 months preceding to her termination, the Respondent/Management has to follow the mandatory provisions laid down under section 25F of the Act. Since the Respondent/Management has not followed the mandatory provisions under section 25F of the Act, the termination is not valid in law and it is void ab initio and there had been unfair labour practice and her services have been terminated unfairly and therefore, the prayer of reinstatement is to be allowed.

11. I find much force in the contention of the learned counsel for the Petitioner because though the Respondent/Management alleged that the terms in the settlements will be binding on the Petitioner by that, they cannot claim or override the mandatory provisions of Section 25F of the Act. In this case, the Petitioner has established before this Tribunal that she has worked for more than 240 days in a continuous period of 12 calendar months preceding her termination. Under no stretch of imagination, it can be said that only because of the terms of the settlements, she was employed in the Respondent/Bank and she cannot claim any benefits under I.D. Act. Since the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months and since the Respondent/Bank has terminated the Petitioner from service without following the provisions laid down under section 25F of the I.D. Act, I find the termination of the Petitioner is void ab initio and as such, I find this point in favour of the Petitioner.

Point No. 2:

The next point to be decided in this case is to what relief, the Petitioner is entitled?

12. In view of my foregoing findings, I find the Petitioner is entitled for reinstatement in service and she is also entitled to consequential benefits including seniority and back wages. No costs.

13. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th June, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner : WW1 Smt. S. Chinnaponnu
For the Respondent : MW1 Sri P. Mathialagan
MW2 Sri R. Subramanian

Documents Marked :—

For the I Party/Petitioner :

Ex. No.	Date	Description
W1	20-04-02	Xerox copy of the statement showing number of days the Petitioner worked in Respondent/Management

For the II Party/Management :

Ex. No.	Date	Description
M1 series	2-1-98 to 2-12-98	Petty cash vouchers issued in respect of Petitioner
M2 series	2-1-99 to 1-12-99	Petty cash vouchers issued in respect of Petitioner
M3 series	3-1-00 to 27-12-00	Petty cash vouchers issued in respect of Petitioner
M4 series	2-1-00 to 11-6-01	Petty cash vouchers issued in respect of Petitioner
M5 series	25-2-98 to 15-7-99	Extract from petty cash register
M6	17-11-87	Xerox copy of the settlement entered into between State Bank of India and SBI Staff Federation
M7	16-7-88	Xerox copy of the settlement entered into between State Bank of India and SBI Staff Federation
M8	27-10-88	Xerox copy of the settlement entered into between State Bank of India and SBI Staff Federation
M9	9-01-91	Xerox copy of the settlement entered into between State Bank of India and SBI Staff Federation
M10	30-7-96	Xerox copy of the settlement entered into between State Bank of India and SBI Staff Federation
M11	28-5-91	Xerox copy of the order of High Court in W.P. No. 7872/91
M12	15-5-90	Xerox copy of the order of High Court of Orissa
M13	16-7-99	Xerox copy of the order of Supreme Court in SLP 3082/99

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4238.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उड़ीसा मैंगनीज एंड मिनेरल्स प्रा. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 414/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-27011/5/2001-आई आर (निविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4238.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 414/2001 of the Cent. Government Industrial Tribunal-cum-Labour Court, Bhubaneswar, as shown in the Annexure in the Industrial Dispute between the management of Orissa Manganese & Minerals (P) Ltd., At/PO : and their workmen, received by the Central Government on 18-10-2005.

[No. L-27011/5/2001-IR(M)]

B. M. DAVID, Under Secy

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri N.K.R. Mohapatra,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Industrial Dispute Case No. 414/2001

Date of Passing Award 16th September, 2005

BETWEEN:

The Management of the General Manager, Orissa Manganese & Minerals (P) Ltd., At/PO. Koira, Dist. Sundargarh. ...1st Party-Management

AND

Their Workmen, represented through the Secretary, Orissa Minerals Workers Union, At/Po. Barsua, Dist. Sundargarh. ...2nd Party-Union

APPEARANCES:

None : For the 1st Party-Management
Shri R. P. Singh, General Secretary, O.M.W. Union : For the 2nd Party-Union

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication *vide* their Order No. L-27011/5/2001 IR (M), dated 12-07-2001/3-8-2001 :—

“Whether the action of the management of Orissa Manganese & Minerals (P) Ltd., Koira by not paying subsistence allowance as per the provision of Section 10-A of the Model Standing Order of Industrial Employment (Standing Order) Act, 1946 to S/Shri Siba Das, Gabarel Munda, Benjamin Munda, Gura Munda, Sona Singh Munda, Purendra Penthei, Gobra Munda, Chandramani Maharana, Budhram Munda, Maheswar Patra, Sukhdeb Barik, Dasarathi Naik and Sombary Das is justified? If not, to what relief the workmen are entitled.”

2. The admitted facts of the case are presented by both parties are that from 01-07-1999 the disputant workman and many others joined in a strike by seizing their works and therefore the management placed them under suspension pending enquiry after declaring the strike illegal. Few days later the Management revoked its order of suspension but did not give any subsistence allowance to the disputants and other who were placed under suspension. It is alleged by the espousing Union that, the said strike having not been declared illegal by the competent authority mere declaration of such strike as illegal by the Management is of no consequence and therefore the disputants are entitled to get subsistence allowance as prescribed under the model standing order.

3. On the other hand, it is claimed by the Management that as the strike was staged without any notice it was open to him to declare the strike illegal and therefore the workmen are not entitled for any subsistence allowance in the absence of a provision in its certified standing order. As regards the applicability of model standing order it is further contended that the same is not applicable to the workman as the Management has got its own certified standing order. In addition to the above, it is further pleaded by the Management that during the strike period the workman and others having realized their mistake apologized and wanted to join in their duties. The Management on a sympathetic consideration of their above request revoked its order of suspension by keeping the proceedings pending and allowed the workers to join in their duties on their agreeing to the condition that they would bring normalcy and will not claim any wages for the period of their absence and as such they are also not otherwise entitled for any subsistence allowances.

4. Be it noted here that when the matter was taken up for hearing both parties did not like to adduce any oral evidence. They simply wanted the Tribunal to dispose of the matter on the basis of their pleadings alone.

5. In view of the above, the main question now boils down for determination is as to whether in the above given circumstances the workmen are entitled to get subsistence allowance or not and if entitled how?

6. It is the settled law that where a strike has been declared illegal the participating workers would not be entitled to get wages for the strike period. In the instant case the only evidence available is that the strike was declared illegal by the Management who under the law is

not competent to do so. There being no further evidence from the side of the Management as to such strike being declared illegal by the competent authority the workmen are entitled for all service benefit for the alleged strike period subject to other restrictions prescribed under their stranding order/service regulations.

7. It was contended by the Management that it has got its own standing order for the workers and under the same a workman is not entitled to get subsistence allowance during period of suspension. Besides when the workers had resumed their duties after the strike on condition that they would not claim any wages for the strike period that itself disentitles them to claim subsistence allowance for the period of suspension following the strike. But to substantiate the same no document worth the name has been filed by the Management. Besides when asked during argument to provide their certified standing order, the Management failed to do so with an explanation that the same is not readily available its establishment being in a defunct state. Therefore, with all probability it is to be presumed that the certified standing order do contain a provision for payment of subsistence allowance to a worker under suspension. Besides when both the parties agreed that the model standing order do contain such a provision, the certified standing order of the Management could not have been otherwise. Therefore, in view of the above, it is held that the workmen are entitled to get subsistence allowance for the period during which they were placed under suspension.

8. Reference is answered accordingly.

Dictated & Corrected by me.

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4239.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान कॉपर लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 14/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-43012/6/2004-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4239.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2005) of the Cent. Government Industrial Tribunal-cum-Labour Court, Jaipur, as shown in the Annexure in the Industrial Dispute between the management of Hindustan Copper Ltd., Khetri Nagar and their workmen, received by the Central Government on 18-10-2005.

[No. L-43012/6/2004-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Case No. CGIT-14/2005

Reference No. L-43012/6/2004 IR(M)

BETWEEN:

Sh. Kamal Chand Mourya, ... Applicant
S/o Sh. Narayan Lal Mourya,
C-99, Bajaj Nagar,
Jaipur

Versus

The Dy. Gen. Manager, ... Non-applicant
Hindustan Copper Ltd.,
Khetri Nagar, KCC,
Distt. Jhunjhunu,
Jhunjhunu (Raj.)

PRESENT:

Sh. R. C. SHARMA, Presiding Officer.

For the applicant : Sh. Neeraj Bhatt.

For the non-applicant : Sh. R.A. Sugandh

Date of Award : 22-9-2005

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of sub-sections 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred this industrial dispute for adjudication to this Tribunal which runs as under :—

"Whether the action of the management of Hindustan Copper Ltd., KCC in terminating the services of workman Shri Kamal Chand Mourya w.e.f. 30-9-2000 is justified? If not, to what relief the workman concerned is entitled and from which date?"

2. The workman in his claim statement has pleaded that he was appointed as a Crane Operator-B by the Hindustan Copper Ltd. (for short, the company) on 8-2-1983, who joined his duties w.e.f. 25-2-1983 and continuously worked with the company. But he developed some mental disease and had to frequently visit Jaipur for its treatment. He has further stated that he remained on leave after obtaining the prior permission from the concerned authority and in the year 1988, he suffered a hand fracture, which also caused him to remain on the leave. The workman has further assailed that the enquiry was proceeded ex-parte against him and has challenged the findings of the Enquiry Officer to be arbitrary and the punishment order to be excessively disproportionate looking to his misconduct.

3. The non-applicant, in his written counter, has disputed the claim of the workman by stating that the workman had availed three days leave from 1-9-86 to 3-9-86 but thereafter he absented himself without obtaining any prior permission, who was chargesheeted on 21-9-99

and he attended the enquiry proceedings in the initial stage, but subsequently did not participate therein, as a result thereof, the enquiry was proceeded ex-parte against him. While supporting the punishment order dated 28/30-9-2000, the non-applicant has described it to be justified.

4. In the rejoinder, the workman has reiterated the facts as stated in the statement of claim.

5. After hearing both the parties on the preliminary issue of the fairness of the domestic enquiry, this Court vide its order dated 16-9-2005 has found the domestic enquiry to be fair and proper.

6. I have heard both the parties and have scanned the record.

7. The Id. representative for the workman while assailing the validity of the punishment order contends that the charges levelled against the workman are not proved against him, that no witness ever appeared before the Enquiry Officer and no statement of any witness was recorded by him. The Id. representative further contends that even in the ex-parte proceedings it is the bounden duty of the department to prove the charge levelled against the workman. The next contention advanced on behalf of the workman is that the charges are not of such a grave nature wherein the punishment of termination could be inflicted on the workman since he was mentally unfit to join the duty during his period of absence, who was suffering from mental disease and was undergoing treatment at Jaipur.

8. Per contra, the Id. representative for the company contends that the charges levelled against the workman have been found to be proved by the Enquiry Officer and there is nothing on the record to disbelieve his report. The Id. representative has also supported the punishment order by arguing that the workman was also punished in the past on being a habitual absentee.

9. I have bestowed my thoughtful consideration to the rival contentions.

10. Now, the question which emerges for determination is whether the findings of guilt dated 2-9-2000 recorded by the Enquiry Officer against the delinquent can be maintained or not.

11. The chargesheet dated 21-8-99 levels the following charge of remaining on unauthorized leave against the workman-delinquent for the following period :—

February, 99	: From 27th to 28th
March, 99	: From 1st to 6th and from 22nd to 31st
April, 99	: Full Month
May, 99	: Full Month
June, 99	: Full Month
July, 99	: From 1st to 14th, from 17th to 21st and from 26th till 31st
And thereafter from 1-8-99	to 30-9-99 (which appears to be added subsequently

to the issuance of the chargesheet)

12. It is revealed from the perusal of the record that in the ordersheet dated 2-9-2000 the Enquiry Officer has noted that the delinquent has not attended the enquiry proceedings despite the notice being served on him, that the Presenting Officer is present and the enquiry proceeding is concluded. On the same day, the Enquiry Officer has recorded the findings to the effect that the Presenting Officer has submitted the statement of the delinquent's absence, which is verified by Head of the Department and has further mentioned that on perusal of the material pertaining to the domestic enquiry, it is found that the charge levelled against the workman is proved.

13. Enquiry report thereafter was forwarded to the disciplinary authority, who agreed to the findings of the Enquiry Officer and a show cause notice of the proposed punishment was served on the delinquent. The delinquent did not put his appearance before the disciplinary authority and consequently vide order dated 28/30-9-2000, the disciplinary authority passed the order of imposing the punishment of termination of service on the workman.

14. It is thus evident on the perusal of the enquiry report that the Enquiry Officer on the basis of the chart alone containing the statement of the unauthorised leave of the workman has concluded his report by stating that on the basis of the statement of the absence of the delinquent the charge is found to be proved against him. Evidently, no witness was examined by the management before the Enquiry Officer and the chart was not exhibited in the evidence by any witness. Thus, the Enquiry Officer has concluded his finding without discussion of any evidence and has simply recorded on the basis of the chart alone that the charge is found to be proved against the delinquent, which cannot be presumed to be a reasonable conclusion of guilt drawn by the Enquiry Officer against the delinquent. The Id. representative for the workman has invited my attention towards the authority reported in AIR 1978 SC 1277, wherein the Hon'ble Apex Court has observed that the disciplinary proceedings are of a quasi judicial character, therefore, the minimum requirement of the rules of natural justice is that the domestic tribunal should arrive at its conclusion on the basis of some evidence and it has further laid down that there should also be the reference to the discussion of the evidence. The submission advanced on behalf of the workman is fortified by the decision supra and in the light of the principle propounded by the Hon'ble Apex Court, the findings of guilt recorded by the Enquiry Officer cannot be termed as a reasoned order which cannot be maintained.

15. For the foregoing reasons, the impugned punishment order passed against the workman-delinquent is liable to be set aside and the claim of the workman deserves to be allowed.

16. In the result, the reference is answered in the affirmative in favour of the workman and against the management of Hindustan Copper Ltd. and it is held that the termination order dated 30-9-2000 passed against the

workman is unjustified, which is quashed. The claim of the workman is allowed and it is further held that the workman is entitled to be reinstated in the service with its continuity and with 50 per cent back-wages from the date of receipt of the reference 4-2-2005 to the date of the award. An award is passed in these terms accordingly.

17. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4240.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तमिलनाडु मैग्नेसाइट लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 136/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-27011/4/2003-आई आर (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4240.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 136/2003) of the Central Govt. Industrial Tribunal-cum-Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the management of Tamilnadu Magnesite Ltd., 5/53, Omalur Main Road and their workmen, received by the Central Government on 18-10-2005.

[No. L-27011/4/2003-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 5th September, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer
INDUSTRIAL DISPUTE NO. 136/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Tamil Nadu Magnesite Ltd. and their workmen)

BETWEEN:

The General Secretary
Salem District Magnesite
Labour Union, Salem

I Party/Claimant

AND

The Manager (P & A)
The Tamil Nadu
Magnesite Ltd., Salem.

II Party/Management

APPEARANCE:

For the Petitioner : Mr. S. Vaidyanathan &
M. Rajendran, Advocates
For the Management : Mr. M.R. Raghavan, Advocate

AWARD

The Central Government, Ministry of Labour vide Order No. L-27011/4/2003-IR(M) dated 21-8-2003 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is:—

“Whether the action of the management of Tamil Nadu Magnesite Ltd. in refusing to pay ex-gratia for the accounting year 2001-02 to all employees irrespective of their pay is justified? If not, to what relief they are entitled to?”

2. After the receipt of the reference, it was taken on file as I.D.No. 136/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:—

The workmen of Tamil Nadu Magnesite Ltd. have been paid ex-gratia payment in cash and Pongal gift in kind each year in addition to minimum bonus of 8.33% even in the absence of available surplus under the Payment of Bonus Act in the every concerned year as customary and it constituted condition of service as a concession in usage. While so the Respondent/Management has denied the existing customary payment of ex-gratia to workmen for the year 2000-01. Denying the payment of ex-gratia amounts to effecting change in the service conditions of workmen without giving notice under section 9A of I.D. Act is illegal and it is against the provisions of I.D. Act. Payment of ex-gratia in addition to bonus payable under Payment of Bonus Act for over a decade was in practice as customary concession as a gesture of goodwill and in order to maintain higher productivity, industrial peace and harmony certain percentage on annual gross wages, varying year to year and that ex-gratia payment is in custom, usage, and practice and became a condition of service of workmen and denial of the same for the year 2000-01 clearly amounts to change in condition of service. From the year 1989-90 till 1999-00, the management has given bonus and ex-gratia payment and Pongal gift to workmen. It was paid as customary practice and constituted as condition of service and it was not out of the gratice nor out of sweet will of the management, but a product of bargaining between the workmen and management and regarded as a legitimate annual concessional payment beyond the provisions of Payment of Bonus Act. Therefore, such denial is unjust, unfair and unlawful. Hence, the Petitioner prays this Tribunal to pass an award directing the Respondent to pay ex-gratia payment and Pongal gift as usual for the year 2000-01. The other five witnesses have raised the same issue and the Govt. has referred the dispute to this Tribunal and the Tribunal has passed an award against the management.

4. As against this, the Respondent in its Counter Statement alleged that the Respondent/Management is a Govt. company formed in accordance with Section 617 of Companies Act and it is bound by various circulars and notifications issued by the Govt. The employees of the

Respondent company are members in those unions. When the members of the trade union have raised demands for the accounting year 2001-02 the matter was pending before the conciliation officer and the Govt. issued a G.O. that payment of Bonus Act alone would govern the matters of payment of bonus to its employees and it was made clear that Respondent company has no alternative but to follow the Govt. directions and make payment only in accordance with the same. As per the Payment of Bonus Act, employees who were drawing less than Rs. 3500/- per month were eligible for payment of bonus at the relevant point of time. Since all the employees of the Respondent company excepting 17 them were drawing more than Rs. 3500/- they were ineligible for payment of bonus and Payment of Bonus Act and hence the question of payment of ex-gratia also therefore does not arise. Of course, an advance of Rs. 4000/- was paid as recoverable advance to be deducted in ten monthly instalments. Therefore, there is a very little scope for the Respondent to effect payment contrary to the express directions issued by State Govt. Therefore, the claim of the workmen is not maintainable. Further, ex-gratia is not an accrued right. The workman would not have any right to demand ex-gratia. The payment of ex-gratia is not authorised by statute. When such is the position, the claim for ex-gratia payment is not tenable and therefore, it is liable to be rejected. When the workman would not have any right to claim any benefit merely because the management concedes certain benefits as ex-gratia, it would not automatically become a customary concession or a condition of service. Once it is not a condition of service, the union is not entitled to any notice under Section 9A of I.D. Act. In this case, there is no proper espousal of the case and there is no proper authority granted to raise demand or dispute. The allegation that ex-gratia payment may be regarded as annual concessional payment beyond the provisions of Payment of Bonus Act for higher productivity and industrial peace and harmony is misconceived. Therefore, the Petitioner is not entitled to ex-gratia as alleged by them and hence, their claim is liable to be rejected with costs.

5. Under these circumstances, the points for my consideration are—

- (i) "Whether the action of the Respondent/Management in refusing to pay ex-gratia for the accounting year 2001-02 to all its employees irrespective of their pay is justified?"
- (ii) To what relief the members of Petitioner union are entitled?"

Point No.1 :

6. The case of the Petitioner in this case is the workmen of the Tamil Nadu Magnesite Ltd. have been paid ex-gratia payment in cash and Pongal gift in kind each year in addition to minimum bonus of 8.33% even in the absence of available surplus under the Payment of Bonus Act in the every concerned year as customary and it constituted condition of service as a concession in usage. The Petitioner further contended that payment of ex-gratia in addition to bonus payable under Payment of Bonus Act for over a decade was in practice as customary concession

as a gesture of goodwill in order to maintain higher productivity, industrial peace and harmony, certain percentage on annual gross wages varying year to year and this payment is in custom, usage and practice and became a condition of service of workmen and therefore, denial of the same for the year 2001-02 clearly amounts to change in condition of service. Further the Secretary of the Petitioner union one Mr. K.P. Varadharajan was examined as WW1 and through him five documents namely copy of the conciliation failure report as Ex. W1, copy of the G.O.No. 442 dated 9-11-2001 as Ex. W2, copy of notice of Petitioner union to Respondent dated 23-11-01 as Ex. W3, copy of minutes of conciliation proceedings dated 12-12-01 as Ex. W4 and copy of G.O.Ms.No. 158 dated 13-5-02 as Ex. W5 were marked. The first witness of the Petitioner says for the year 1989-90 the Respondent/Management paid bonus of 8.33% and ex-gratia amount @ 9.67% besides a Pongal gift in kind in order to maintain higher productivity. Similarly, in the year 1990-91 ex-gratia payment @ 10.67% besides a Pongal gift in kind worth Rs. 160/- was paid and for the year 1991-92 the Respondent/Management paid ex-gratia @ 11.42% besides a pongal gift in kind worth Rs.160/- was paid. Similarly, for the year 1992-93 and 1993-94 ex-gratia payment @ 9.67% and 8.33% respectively and pongal gift kind worth of Rs. 200/- and Rs. 175/- respectively were paid and for the year 1994-95 ex-gratia payment @ 8% besides Pongal Gift was given. For the year 1995-96 ex-gratia payment @ 9% besides a Pongal gift in kind worth Rs. 300/- was paid and for the year 1996-97 ex-gratia totalling 18.33% and Pongal gift in kind worth Rs. 300/- was paid. For the year 1997-98, ex-gratia payment of 10% and Pongal Gift in kind worth Rs. 300/- was paid. Similarly in 1998-99 ex-gratia payment of 11% was paid and for the year 1999-2000 ex-gratia payment of 11% and pongal gift of Rs. 300/- was paid. For the year 2000-01 the management refused to pay ex-gratia and pongal gift to the workmen. Thus, from the year 1989-90 to 1999-2000 payment of ex-gratia and pongal gift was made as customary practice and it constituted a condition of service.

7. On the side of the Petitioner, it is argued that ex-gratia is not out of gratis nor out of sweet will of the management but a product of bargaining between the workmen and the management and regarded as legitimate annual concessional payment beyond the provisions of Payment of Bonus Act for the reason of higher productivity and industrial peace and harmony and therefore, this payment cannot be denied to workmen who were enjoying for over a decade by custom, usage and practice which has become condition of service which cannot be altered by denial of the same to the detriment of the workmen without giving any notice under Section 9A of the I.D. Act and therefore, it is unjust and unfair and unlawful.

8. But, as against this, on the side of the Respondent/Management one Mr. Shanmugasundaram, Deputy Manager-(Accounts) in-charge of Finance and Accounts Department was examined as MW1 and through him copy of G.O. No. 349 dated 22-10-02 and copy of letter dated 5-12-2002 were marked as Ex. M1 and M2 respectively. On behalf of the Respondent, it is contended that the

Respondent/Management is wholly owned by Tamil Nadu Govt. and since the Govt. has not passed any orders with regard to ex-gratia, payment of ex-gratia for the accounting year 2001-02 was not paid. According to the G.O. under Ex. M1 the Respondent has to pay bonus according to Payment of Bonus Act. Even though they have written a letter for clarification with regard to ex-gratia, the Govt. has given a reply on 5-12-2002 that they are not entitled to ex-gratia and therefore, they have not paid ex-gratia during that period. It is further argued that the Respondent/Management is bound by the orders of Tamil Nadu Govt. and Articles of Association. Article 22 clearly says that Respondent/Management is bound by the orders/instructions of Govt. of Tamil Nadu and therefore, this claim of the Petitioner is not valid & maintainable.

9. On behalf of the Petitioner it is contended that though it is stated that the Respondent/Management is bound by instructions, it is admitted by MW1 that the Govt. has not sanctioned any amount when the Respondent/Management was in financial difficulty. It is further admitted by MW1 that even while the Respondent/Management was running into loss, they have entered into settlement with regard to wage revision. Further, it is established by the Petitioner that even while the Respondent/Management was in financial crisis, they have paid ex-gratia to the employees and this payment of ex-gratia which was paid over a decade has become a customary practice and therefore, the denial of this customary practice is unlawful. Further, as per item 8 of IV schedule withdrawal of any customary concession or privilege or change in usage amounts to condition of service for change in which notice is to be given under Section 9A of the I.D. Act. In this case it is clear case of the Petitioner that no notice under Section 9A was given to the Petitioner Union and therefore, unilateral withdrawal of ex-gratia payment is not lawful. Therefore, the Petitioner Union is entitled to get relief in this case.

10. I find some force in the contention of the learned counsel for the Petitioner because, though the claim of ex-gratia is not an accrued right, the claim of the Petitioner namely payment of ex-gratia in addition to bonus under Payment of Bonus Act for over a decade as practice and customary concession as gesture of goodwill and in order to maintain higher productivity, industrial peace and harmony, this was given to the workmen, thus, it is varying from year to year. This payment of ex-gratia is in custom, usage and practice and thus, it has become condition of service of workmen and denial of the same clearly amounts to change in condition of service under Section 9A of the I.D. Act. Though the claim of the Petitioner @ 11% as ex-gratia and Pongal gift for worth of Rs. 300/- as a custom is not established before this Tribunal, total withdrawal of ex-gratia which amounts to withdrawal of service conditions and therefore, necessarily requires notice under Section 9A of the Act. But, in this case, it is alleged by the Respondent/Management that since the Respondent/Management is a Government company formed under Section 617 of Companies Act and it is bound by circulars and notifications issued by the Govt. from time and therefore, the Respondent/Management is bound by G.O.No. 349. But, I find since the payment of ex-gratia has

become a custom and this custom cannot be withdrawn without giving notice under Section 9A of the I.D. Act, the Petitioner is entitled to the relief. Though the Petitioner has claimed payment of ex-gratia @ 11%, I find 8.33% of ex-gratia is just and reasonable besides Pongal gift in kind worth of Rs. 300/-. Therefore, I find the Respondent's refusal to pay ex-gratia for the accounting year 2001-02 is not justified and the members of the Petitioner Union are entitled to the payment of ex-gratia @ 8.33% and pongal gift of Rs. 300.

Point No. 2 :

The next point to be decided in this case is to what relief the members of the Petitioner Union are entitled ?

11. In view of my foregoing findings, I find the members of the Petitioner Union are entitled to ex-gratia @ 8.33% and pongal bonus in kind worth of Rs. 300/- for the accounting year 2001-02. No costs.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 5th September, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Claimant: WW1 Sri K. P. Varadarajan

MW1 Sri A. Shanmugasundaram

Documents Marked :—

For the I Party/Claimant :

Ex.No.	Date	Description
W1	07-10-02	Xerox copy of the failure report of conciliation
W2	09-11-01	Xerox copy of the G.O. No. 442
W3	23-11-01	Xerox copy of the notice of Petitioner Union to Respondent/Management
W4	12-12-01	Xerox copy of the minutes of conciliation proceedings
W5	13-05-02	Xerox copy of the G.O. Ms No. 158

For the II Party/Management :—

Ex. No.	Date	Description
M1	22-10-02	Xerox copy of the G.O. No. 349
M2	05-12-02	Xerox copy of the letter from Secy. Industries Department, Chennai to Managing Director, TANMAG, Salem.

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4241.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑयल इण्डिया लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली-संख्या-II के पंचाट (संदर्भ संख्या 25/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-30011/74/2002-आई आर (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award Ref. 25/2003 of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi, No. II as shown in the Annexure in the Industrial Dispute between the management of M/s. Oil India Ltd., and their workmen, received by the Central Government on 18-10-2005.

[No. L-30011/74/2002-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, NEW DELHI

R.N. RAI Presiding Officer :

I.D. NO. 25/2003

In the matter of :—

Shri Ravinder Singh & Ors.,
C/o. the General Secretary,
Delhi Multi Storeyed Building Employees Congress,
Vandana Building, 11, Tolstoy Marg,
New Delhi—110 001.

VERSUS

The Chairman -cum- Managing Director,
M/s. Oil India Limited,
Allahabad Bank Building,
17, Sansad Marg,
New Delhi—110 001.

AWARD

The Ministry of Labour by its letter No. L-30011/74/2002 IR(M) Central Government Dt. 24-2-2003 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of Oil India Limited, New Delhi in not regularizing the services of six claimant workmen (S/Shri Ravinder Singh, S/o. Shri Chanderket Singh, Satyendra Kumar Mishra, S/o. Shri Umakant Mishra, Mohan Ghimire, S/o. Shri Ratibilash Ghimire, Dleshwar Choudhary, S/o. Shri Ramjee Choudhary, Bhikhari Choudhary, S/o. Shri Ramesh Choudhary, Kameshwar Prasad, S/o. Shri Shiv Kumar Prasad) from the date of his initial appointment is just, fair and legal ? If not, what relief the six claimant workmen are entitled to and from which date?”

It transpires from perusal of the order sheet that notice to the workman was sent to file claim statement but the workman applicant has not turned up. The management is also not present. The workman applicant has not filed claim statement despite service of notice.

No dispute award is given.

Date : 5-10-2005.

R. N. RAI, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का. आ. 4242.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इण्डिया लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-I के पंचाट (संदर्भ संख्या 11/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-11012/41/2004-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4242.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workman, which was received by the Central Government on 18-10-2005.

[No. L-11012/41/2004-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT MUMBAI

PRESENT :—

Justice Ghanshyam Dass,
Presiding officer

REFERENCE NO. CGIT-11/2005

Employers in relation to the Management of Air India Ltd.

AND

Their Workman Shri Deepak Prabhu

Appearances :

For the Management : Ms. P. Janvekar, Advocate
For the Workman : Workman present in person
State : Maharashtra

Mumbai, dated this the 4th day of October, 2005.

AWARD

This is a reference made by the Central Government in exercise of its powers under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act (the Act for short). The terms of reference are as follows :—

“Whether the action of the management of M/s. Air India Ltd., Mumbai and its officers in awarding the punishment of “Dismissal from service” on Shri Deepak Prabhu, Sr. Store Keeper vide order dated 25-2-2000 (subject to grant of approval under section 33(2)(b) of Industrial Disputes Act, 1947 by the National Industrial Tribunal, Mumbai) is legal, proper & justified ? If not, to what relief is the Workman entitled ?”

Workman concerned herein has preferred an application dated 4-10-2005 stating therein that he desires to withdraw the Reference. The Management has no objection to the same.

The Reference is accordingly disposed off for want of prosecution.

GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 18 अक्तूबर, 2005

का.आ. 4243.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उड़ीसा माईनिंग कार्पोरेशन लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 429/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-29011/50/2001-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4243.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 429/2001) of the Central Government Industrial Tribunal-com-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of M/s. Orissa Mining Corporation Ltd, and their workmen, which was received by the Central Government on 18-10-2005.

[No. L-29011/50/2001-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR**

PRESENT:

Shri N.K.R. Mohapatra, Presiding Officer

C.G.I.T.-Cum-Labour-Court, Bhubaneswar.

Industrial Dispute Case No. 429/2001

Date of Passing Award—23rd September 2005

BETWEEN:

The Management of the C.M.D.,

M/s. Orissa Mining Corporation Ltd.,

OMC House,

Bhubaneswar – 751001

... 1st Party-Management

AND,

Their Workmen, represented through the

General Secretary,

Orissa Mining Workers

Federation,

C/o. OMC Ltd., OMC House,

Bhubaneswar

... 2nd Party-Union

APPEARANCES:

M/s. M.R.Mohanty ... For the 1st Party-
& Associates Management

M/s. S.S.Das & ... For the 2nd Party-Union.
Associates

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29011/50/2001 (IR (M), dated 07-11-2001.

SCHEDULE

“Whether the action of the Management of OMC by not regularizing S/Shri B.S.Swain, K.K.Rao, M. Patnaik, M.K. Swain, B.K. Jena and M.R. Mohanty from their date of joining and not providing increment and leave facilities is justified? If not, what relief the workmen are entitled to?”

2. It is the admitted case of both the parties that the State Government of Orissa being compassionate to the retrenched workers of the erstwhile BALCO addressed a letter on 7-4-1990 to the Management of Orissa Mining Corporation to accommodate some retrenched workers against suitable vacant post on compassionate ground. Along with the said letter a list of some retrenched workers was also provided to the Management of OMC authority (hereinafter mentioned as Management) for its necessary action. Considering the above list and the request made by the State Government, the Management, being a fully owned Corporation of the State Government of Orissa, decided to take only nine numbers of retrenched workers of BALCO. Accordingly after obtaining necessary approval from the State Government in Steel & mines Department gave appointment to one P.C.Swain as Columnist against a reserved post meant for a physically handicapped person and for appointment of one Ashok Kumar Patnaik as a Surveyor, Grade-III moved the Government to dereserve one vacant post meant for a S.T. Candidate. As the Government of Orissa on principle did not agree for such de-reservation, the Management without taking similar steps in respect of other chosen candidates decided to give them ad hoc appointments and accordingly in the year 1991 appointed workmen namely Shri B.S.Swain, Shri K.K.Rao, Shri M.Patnaik, Shri M.K.Swain, and Shri B.K.Jena as Junior Assistants for a period of 44 days in each spell against vacant posts meant for ST candidates. Likewise the workman Shri M.R.Mohanty, an outsider was also given adhoc appointment for a period of 44 days in each term on conditions little different from one meant for the retrenched workers of BALCO.

3. With the above admitted facts it is further contended by the Federation representing the workmen that since the workmen are working against regular vacant posts ever since their appointment, they deserve to be regularized as each of them has got the requisite qualification to be appointed as a Junior Assistant. It is further contended that since as per the decision of the Board of Directors in their 332nd meeting these workmen have subsequently been extended with necessary service benefits at par with the employees of non-permanent category, they deserve to be regularized with annual increment and leave facilities as available to a regular employee.

4. The Management on the other hand took the stand that it being a fully owned Corporation of the State of Orissa is bound to follow the instruction and the circulars issued by the Government. The workman having been appointed against some vacant post meant for the S.T. Categories and such appointment being adhoc in nature they cannot be regularized against their present posts by over-looking the provisions of ORV Act and Rules framed thereunder (C.N.V. Act) of Orissa Mining Corporation Reservation (R&P) Rules. It is also contended by the Management that the provisions of the model standing order applicable to a mine is not applicable to the employees of the Management as claimed by the Federation as the Management has got its own rule for recruitment and promotion of its employees. It is further pleaded that these workmen are never in continuous employment for 240 days in any calendar year as claimed by the Federation and as such under the existing rule of the Management they can neither be automatically regularized nor they can be paid the benefits like increment and leave facilities as available to a regular employee, their appointment being adhoc in nature against reserved posts.

5. On the basis of the pleadings of both the parties the following issues were framed.

ISSUES

1. "Whether the action of the Management of OMC by not regularizing S/Shri B.S. Swain, K.K. Rao, M. Patnaik, M.K. Swain, B.K. Jena and M. Mohanty from their date of joining and not providing increment and leave facilities is justified?

2. If not, what relief the workmen are entitled to?"

6. During trial four of the workmen namely Shri M.K. Swain, K.K. Rao, Shri Maheswar Patnaik and Shri B.K. Jena have been examined on behalf of the Federation while a sole witness has been examined on

behalf of the Management. Besides examining these witnesses each of the parties have also filed their documents and the same have been marked on admission as Ext. 1 to Ext. 190 from the side of the Federation and Ext.-A to Ext.-D from the side of the Management. The documents filed from the side of the Federation are mostly appointment letters issued from time to time to the workmen while the Management has produced one official letter under which it was asked by the State Govt. to give compassionate appointment to the workmen and another letter of the Government under which de-reservation of posts was refused by the State Government. Initial appointment letters issued to these workmen have also been filed from the side of the Management.

ISSUE NO. 1

7. This issue being the prime issue is taken up first. There is no dispute that on the basis of a request letter received from the Government of Orissa vide Ext.-A the workmen namely S/Shri B.S. Swain, K.K. Rao, M. Patnaik, M.K. Swain, and B.K. Jena were given adhoc appointment being the retrenched workers of the erstwhile BALCO while on the basis of recommendation made by the office of the Chief Minister vide Ext.-C/5, the workman Shri M.R. Mohanty was given similar appointment on adhoc basis. The initial appointment letters issued to these persons marked as Ext.-C, C/4 and C/6 shows that each of the retrenched workmen of the erstwhile BALCO were given appointment on similar conditions while workman Shri M.R. Mohanty an outsider was given appointment on condition little different from the condition of earlier ones. For better appreciation of the case the common terms and conditions under which the retrenched workmen were appointed are extracted hereunder from their appointment letters.

In pursuance of the P&C Deptt. letter bearing No. 6877(35), dated 7-4-1990 Shri _____, a retrenched candidate of BALCO is hereby appointed as _____ under O.M.C. Limited on adhoc basis for a period of 44 (forty four) days in the scale of Rs. 875-20-975-25-1025-EB-25-1275-EB-30-1425 (with starting pay of Rs. 875 p.m.) with usual allowance as admissible to him as per Rules and Regulations of OMC Ltd. subject to the following terms and conditions :

- (i) This appointment is purely on temporary basis for a period 44 days from the date he joins in OMC and may be terminated at any time without assigning any reason thereof or on appointment of SC/ST candidates against this vacancies, whichever is earlier.

- (ii) He can be transferred to any other Regions/Units of OMC Limited as and when required.
- (iii) He will carry out whatever work is assigned to them by the authority/Management.
- (iv) He will be guided under OMC Rules relating to disciplinary procedure during his said period of temporary service.
- (v) No T.A. will be admissible at the time of his joining at _____ of OMCLtd.
- (vi) On the date of his joining he shall furnish detailed information in the enclosed form in duplicate.

If Shri _____ accepts the offer as per the above terms and conditions he should intimate his acceptance immediately and report for duty to the _____ of OMCLtd. at _____ in the district of _____ by/on 18-3-91 positively. In case he does not report for duty to the aforesaid officer by the specific date the offer of this appointment will be automatically treated as cancelled.

8. The terms and conditions as contained in the appointment letter of Shri M.R. Mohanty are as follows :

Shri Manoranjan Mohanty an outsider is hereby appointed as Junior Assistant in the office of the Regional Manager, Orissa Mining Corporation Limited at Nayagarh Region on adhoc basis for a period of 44 days in the Scale of Rs. 875-20-975-25-1025-EB-25-1275-EB-30-1425 (with starting pay of Rs. 875 per month) with usual allowances as admissible to him as per rules and regulations of OMC Ltd. subject on the following terms and conditions :

- 1. This appointment is purely temporary and can be terminated at any time without assigning any reasons thereof.
- 2. He can be transferred to any other regions/units of OMC Ltd., as and when required.
- 3. He will carry out whatever work is assigned to him by the higher authority/management.
- 4. No T.A. will be admissible at the time of his joining at Nayagarh Region of OMC Ltd.

If Shri Mohanty accepts the offer as per the above terms and conditions he should intimate his acceptance immediately and report for duty to the Regional Manager of OMC Ltd. at Nayagarh in the District of Puri by/on

25-1-1991 positively. In case he does not report for duty to the aforesaid officer by the specified date, the officer of this appointment will be automatically treated as cancelled.

9. From the narration of the appointment letters issued to different workmen it is clear that the retrenched employees of BALCO have been given appointment against the posts reserved for ST candidates on condition that their services will be terminated soon after the appointment of S.T. candidates on regular basis is made whereas there is no such stipulation in the appointment letter issued to the workmen Shri M.R. Mohanty. His appointment letter marked as Ext. C/6 simply indicates that he was given adhoc appointment on the recommendation of the Chief Minister and there is no mention that such appointment was against any vacant posts meant for a reserved candidate. The only condition imposed is that his service will be terminated at any time without assigning any reason thereof. The appointment letters issued to all these workmen further indicates that each of them were given the option to join if they agree to the terms & conditions contained in their respective appointment letters.

10. As all the workmen have been appointed on adhoc basis it is pertinent to make a reference to the pronouncement of different Courts. In a case reported in LLJ(I) 1988 447 the High Court of Gujarat have observed that for a post where there are recruitment rules which provides that recruitment shall be in accordance with the rules by a selection committee it cannot be said that the person who is appointed purely on adhoc basis without following the proper procedure would get a right to be appointed permanently on that post. If the contention is accepted the rule would become "otiose" and nugatory and the department can favour any person without following any procedures or rules that would lead to arbitration. If adhoc employees are made permanent by the orders of the Court merely on the ground that they have worked in the post for some years the entire rule could be easily bypassed by a person having authority to make appointment on adhoc basis. If an adhoc employee is considered as permanent employee the result would be that the petitioners-employees who have not been selected under the rules would get the benefit of being appointed to the post without qualification or facing any competition with other eligible candidates.

11. Similarly reliance being placed on a decision of the Apex Court [State of Madhya Pradesh and others—Versus—Dharam Vihar reported in [1998(6) SCC165] the High Court of Andhra Pradesh in a case reported in LLJ 2001 (Vol. 2) 323 have held that the status of a person cannot change with the passage of time. A person who was appointed on temporary post or adhoc basis thus cannot claim the status of a permanent servant. Similarly in the case of Piara Singh reported in AIR 1992 SC 2130 it has

further been held that, if for any reason an *ad hoc* or temporary employee is continued for fairly a long period the authority must consider his case for regularization provided he is eligible and qualified according to the rules and the service records is satisfactory and his appointment does not run counter to the reservation policy of the state. Therefore, when the retrenched workers of BALCO have been given compassionate appointment against the posts reserved for ST candidates on condition that they are terminable on availability of regular S.T. candidate, they can not claim now that the Management by ignored such reservation principle should regularize them solely on the basis of their length of *ad hoc* service period. Further when admittedly these workmen have been given appointment on compassionate grounds that itself speak that they have no right to claim parity with those regular employees who have entered the service through recruitment tests. As the letter of appointment of these workmen is quite specific in its terms that they would be guided by service rules of the Management which prescribes for combined recruitment test, they can not also be regularized automatically unless they qualify themselves in the recruitment tests held by the Management from time to time.

12. In so far as the appointment of the workman Shri M.R. Mohanty, an outsider is concerned his appointment letter of course does not indicate that like other workman he was also appointed against a reserved vacancy. It simply indicates as if he was appointed on *ad hoc* basis against a permanent vacant post. Normally when a person is appointed on *ad hoc* basis against a vacancy of a permanent nature he is supposed to continue in that post so long as the same is available and once the post is filled up by a regular recruit, he would automatically cease to function. The evidences on record shows that Shri Mohanty was also given compassionate appointment on the basis of a recommendation of the Chief Minister. But that does not mean that he should be regularized and brought at par with other regular recruits without passing through recruitment test. Therefore, Shri Mohanty can not also be regularized automatically bringing him at par with other regular recruits so as to enable him to get periodical increment and other service benefits including leave benefits as is available to a regular recruit unless and until he qualifies himself in the recruitment test held by the Management from time to time.

13. It is no doubt true that the initial appointment letters (Ext.-C, C/1 to C/4 and C/6) issued to all the workmen indicate that they were given *ad hoc* appointment against regular scale of pay as applicable to a regular employee i.e. in the scale of pay of Rs. 875-20-975-1,025-EB-25-1,275-EB-30-1,425/- with usual D.A. as admissible to them as per the rules and regulations of the Orissa Mining Corporation. But one should not commit the mistake of ignoring the bracketed sentence "with starting pay of

Rs. 875 per month" which indicates that the workmen were simply appointed on consolidated pay of Rs. 875 plus usual D.A. over the same. The various 44 days appointment letter marked from the side of the workmen also fortifies the same. Therefore, the next argument of the Federation that the workman are entitled for periodical increments as per their various appointment letters issued from time to time also fails.

14. Four of the workman have examined themselves as W.W. 1 to W.W. 4. In their evidence each claim to have worked for 240 days continuously in every completed year from 1991, while the Management has refuted the same. A reference to the various appointment letters issued to these workmen show that they were given separate appointment letters for each spell of 44 days with a minimum break suggesting thereby the break so given by the Management was quite superficial and therefore the workmen can be said to be in continuous employment for more than 240 days in every completed year from 1991 onwards. But that itself is not sufficient for them to claim automatic regularization. As held above an *ad hoc* employee can not be regularized automatically howsoever lengthy the period of his engagement may unless and until he qualifies himself in the recruitment test for which separate rules have been framed by the Management. In the case of Piara Singh (supra) it has been observed by the Apex Court that if for any reason the *ad hoc* or temporary employee continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state. The evidence of the Management indicates that according to a decision taken by the Board of Directors in their 332nd Board meeting these workmen have been allowed to draw the benefits, which are available to a non-permanent category of employee. In the statement of claim the Federation has also admitted such facts and therefore when the workmen have already been empanelled in the category of non-permanent employee that itself speak that their services have already been regularized by the Management in one way or other and therefore they are declared entitled to such of the benefits as are available to a non-permanent employees but not to those available to a regular recruit.

ISSUE NO. II

15. Accordingly the reference is answered holding that the Management is justified in refusing to regularize the service of the workmen at par with the regular recruits and in not providing increment and leave benefits to them at par with regular recruits (employees).

Dictated & corrected by me.

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4244.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली स्टेट मिनरल डेवलपमेंट कार्पो. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली नं. 1 के पंचाट (संदर्भ संख्या 37/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-29012/59/93-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4244.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/96) of the Central Government Industrial Tribunal-com-Labour Court, New Delhi No. 1 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Delhi State Mineral Development Corporation Ltd., and their workman, which was received by the Central Government on 18-10-2005.

[No. L-29012/59/93-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
NEW DELHI

PRESENT :

Shri S.S. BAL. Presiding Officer

I.D.No. 37/96

In the matter of dispute between :

Sh. Sukh Ram Sharma Workman
S/o Sh. Layak Ram,
Through B.K. Prasad,
C.P.W.D. Mazdoor Union,
Room No. 95, Barracks No. 1/10,
Jam Nagar House, Shahjahan Road,
New Delhi.

Versus

Delhi State Mineral Development Management
Corporation Ltd.,
Through General Manager,
Sanjay Colony, Bhatti Mines,
New Delhi-110030.

APPEARANCES :

Workman in person with his A/R

Shri B.K. Prasad

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-29012/59/93-IR (Misc.) dated 27-3-96 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the Management of M/s. Delhi State Mineral Development Corporation in not regularising the services of Shri Sukh Ram Sharma in the grade of L.D.C. in the scale of Rs. 950—1500 and transferring him from Delhi State Mineral Development Corporation to Education Department as unskilled workman is justified? If not, to what relief the workman is entitled?”

2. Brief facts of this case as culled from record i.e., statement of claim and written statement are that the workman Shri Sukh Ram Sharma claims that he was engaged w.e.f. 9-7-86 as Attendance Keeper Clerk with the respondent Delhi State Mineral Development Corporation Ltd. and was assigned duties obviously of clerical nature. However, his services were arbitrarily regularised by the management as Group ‘D’ employee w.e.f. 1-4-91 in the scale of Rs. 750 to Rs. 940. It is further averred that S/Shri Satish Kumar Sharma and Ravinder Kumar were also doing same work but their services were regularised as L.D.C. in the pay scale of Rs. 950—1500. Previously writ petition No. 100/88 captioned as Bhagwati Prasad and others Vs. Management of Delhi State Mineral Development Corporation (DSMDC) was filed in the Hon’ble Supreme Court wherein vide order dt. 15-2-88 the management was directed to regularise 1/3rd of the petitioners who were appointed way back between 1983 to 1986. Immediately in the pay scale of Rs. 192—232 or in the corresponding revised scale with allowances. Another 1/3rd of the Petitioner were ordered to be regularised by 1st April, 1990 and remaining 1/3rd to be regularised by 1991. Again the Hon’ble Supreme Court in its order in the above case on the basis of the report of Labour Commission directed the management to regularise the services of S/Shri Satish Kumar, Ravinder Kumar as clerks w.e.f. 15-5-91. Workman also preferred a writ petition No. 14/92 alongwith other workmen for giving proper pay scale before Hon’ble Supreme Court and the same was withdrawn as the Supreme Court advised the petitioner to press their claim before the Appropriate Authority. Thereafter workman filed another Civil Writ before the Hon’ble High Court on the same ground but the same was also withdrawn. It is further averred that the management arbitrarily transferred the services of the

workman Shri Sukh Ram Sharma, without his consent in the lower grade to the Education Department, Delhi Administration on 23-9-92 and he was compelled to join said department as Group 'D' employee. Through, the case of the workman for proper grade as L.D.C. was pending before Hon'ble High Court of Delhi. Thereafter the services of the workman Shri Sukh Ram Sharma have been regularised as L.D.C. and transferred to Education Department as such. Workman had been doing the work of Attendance Keeper-cum-Clerk of clerical nature since the engagement in the Corporation i.e. 16-7-86 and after regularisation in the lower scale on the post of Beldar from 1-4-91. He was doing the duties of clerical nature. His services were arbitrarily transferred to Education Department from 23-9-92; that the employer changed the service conditions of the workman from clerical to unskilled workman without appropriate notice 9A I.D. Act and also without his consent. His transfer order is illegal and unjustified. Workman has completed 90 days of continuous service and as such he is deemed to have attained the status of permanent workman under the provisions of Payment of Wages Act and Model Standing Rules under Industrial Employment Act. However the management is denying facilities status of the workman and thus has treated him with this discrimination *viz-a-viz* other employees similarly situated. Thus the action of the management in regularising him in the lower grade as Beldar and denying him the benefit of a regular workman in proper pay scale is unfair practice under the Vth Schedule of the I.D. Act, 1947. In view of the above facts workman claims regularisation as L.D.C. in the scale of Rs. 950-1500 from the date of his initial employment w.e.f. 1-4-1991 and also for regularisation and quashment of transfer order from Delhi State Mineral Development Corporation to Education Department and Payment of Wages in the pay scale of Rs. 950-1500 alongwith arrears and also claims arrears of wages in the said pay scale with all consequential benefits and other reliefs which are deemed fit and proper.

3. The claim is contested by the management by filing reply denying that the workman is entitled to be regularised as clerk as claimed. However, it is stated that as he was not working as a clerk or attendance keeper cum clerk as claimed as there is no such post. It is stated that the assistant were performing job of clerk in the office in the management and workman was rendering function as helper from time to time to the Assistant in the office of management Corporation and that no discrimination has been done. Shri Satish Kumar and others have been made clerk as they were functioning as clerk on the basis as they were performing clerical nature of duties on the basis of report as they were found to have worked by the Labour Commissioner discharging duties of clerk in the information office of Labour Commissioner as per report under the Directions of the Supreme Court/Apex Court.

4. Written statement was followed by replication wherein the workman reiterated the contents of the claim statement and controverted the pleas/averments made on behalf of the management respondent.

5. Thereafter management adduced evidence by way of affidavit of S/Shri B.B. Prasad MW1 and S.L. Kashyap as MW 2. who were cross-examined and workman Sh. Sukh Ram Sharma examined himself as WW1.

6. After closing of evidence of both the parties the matter was posted for arguments on many hearings but none appeared for the management. Shri B.K. Prasad A/R for the workman appeared and addressed arguments.

7. Perusal of the record shows both the parties including management have filed written submissions. Mr. Prasad also addressed oral arguments. I have given my anxious thought and gone through the written submissions submitted by both the parties meticulously.

8. In this case the controversy which requires determination in this case is that whether the workman Shri Sukh Ram Sharma is entitled to be regularised as clerk w.e.f. 1-4-91 as claimed. The management denies that the workman is entitled to be regularised as claimed on the ground that he has not functioned as a clerk or performed the duties of clerk or as attendance keeper-cum-clerk as claimed. According to the management he has only helped the Assistant working in the management from time to time.

9. That the workman has placed on record documents which are collectively exhibited as WW1/2 to WW1/25. Document dated 15-6-90 Ex. WW1/2 mentions the names of the workman (1) Sh. R.S. Chhakkar AG-II Ist shift Section (2) Ram Singh (3) Kiran Pal (4) Sukh Ram 1st Shift Section and in this document it is mentioned that they will maintain Labour attendance form 'D' & 'G' Register and should submit daily attendance of the Labourers to the concerned pit foreman. Positively by 10 AM sharp. From this document it is evident that the workman mentioned therein including Sukh Ram claimant were asked to maintain labour attendance Form 'D' & 'G' Register doing duties of Attendance Keeper and submitting the same to the Pit Foreman other admitted document is the Identity Card marked 'B' which has been admitted by MW1. This document has been issued by the officer of the Delhi State Mineral Development Corporation. In this documents, father name, date of birth, date of issue and date of employment of the workman has been mentioned. The designation of the workman has been mentioned as Attendance Keeper Clerk though the contents of this documents have been denied. However, the issuance of the Identity Card have been denied but its issuance has been admitted by the respondent and once the issuance of the Identity Card is admitted the above particulars mentioned in the Identity Card i.e. name,

designation, date of birth and date of employment and date of issue are taken to be correct. As such this document mark 'A' and document which have been marked as WW1/2 go to show that designation of Sh. Sukh Ram was attendance keeper clerk and that he was required to maintain labour attendance Form 'D' and 'B' Register and submit daily attendance of the labourers to the concerned Pit Foreman. The nature of the job appears to be clerical and is that of not 'D' class employee. Besides this other document dt. 24-4-90 and Ex. WW 1/3 to 25 go to show that workman has submitted report or attendance of Labourers to Pit Foreman. From the above said document dt. 15-6-90 it is evident that the nature of the job of the workman appears to be clerical & not of 'D' post as claimed by the management. He has been doing the job of marking attendance of the labourers with respondent and was assigned the said job, which is of the nature of clerical work or job and not the function of bailder and not of chowkidar and not a job of an unskilled workman. He was performing job in the nature of clerk which is skilled workman. Hence the action of respondent in transferring him as an unskilled workman is not justified. In fact he should have been transferred and regularised to the post of a clerk in the grade of L.D.C. and he should not have been transferred and assigned the unskilled job on his transfer from Delhi State Mineral Development Corporation to Delhi Education Deptt. and in fact he is entitled to be posted as LDC (Clerk) on his transfer and regularised in the said post.

10. In view of the above I am of the opinion that the action of the Department in not regularising the services of the workman in the grade of L.D.C. and transferring him to Education Department as unskilled workman is not justified and legal. In fact on his transfer from Delhi State Mineral Development Corporation to Delhi Education Deptt., Delhi he is entitled to be regularised as L.D.C. in the grade of 950-1500 w.e.f. 9-7-86.

Dated 19-09-2005

S. S. BAL, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

क्र.आ. 4245.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हट्टी गोल्ड माईन्स कं. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बेंगलूर के पंचाट (संदर्भ संख्या 17/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-43012/14/99-आई आर(विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2000) of the Central Government Industrial Tribunal—Com-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Hutti Gold Mines Co. Ltd. and their workmen, received by the Central Government on 18-10-2005.

[No. L-43012/14/99-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 23rd September, 2005

PRESENT:

SHRI A.R. SIDDIQUI Presiding Officer

C.R. No. 17/00

I Party

Shri Hanumappa,
Mill T. No. 282
House No. 14/6,
G.R. Colony,
Hutti Gold Mines Co. Ltd.,
Hutti.
Raichur-545115

II Party

1. The Chairman,
Hutti Gold Mines Co. Ltd.
Regd. Office, 1/5,
Ulsoor Road,
Bangalore-560042
2. The General Manager,
Hutti Gold Mines Co. Ltd.,
Hutti, P.O.,
Raichur-545115

AWARD

1. The Central Government by ex-ercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order No. L-43012/14/99/IR(M) dated 2nd February, 2000 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of M/s. Hutti Gold Mines Co. Ltd., Hutti in imposing the punishment of dismissal from service on Shri Hanumappa is justified? If not, to what relief the workman is entitled?"

2. The Charge Sheet dated 24-12-98 was issued by the management against the first party on the allegation that on 23-12-1998 he reported for work in the morning shift i.e. from 7 A.M. to 3 P.M. After completion of the

allotted work he stood in the queue at Gate No. 4 Mill Stand for routine Security Check by the Security Guard. When the Security Guard Mr. Manappa wanted to take personal search of the first party he did not lift his hand and held his hand on the said pocket. The Security Guard being suspicious took the search of the person of the first party and found 3 pieces of gold wrapped in the pay slip and kept in his diary and found in the left breast pocket of the first party. Those 3 pieces of gold weighing 1/2 gram were recovered from the pocket in the presence of Shift Inspector Habeeb Khan and Sr. Security Inspector Shri B.S Raju and accordingly Mahazar was drawn and therefore, the first party committed or made an attempt to commit the theft of the above said pieces of gold. The first party on the receipt of the charge sheet submitted his explanation denying the charges and the management not being satisfied with the explanation submitted by him, Domestic Enquiry was ordered and conducted against him and on the basis of the Domestic Enquiry findings passed an order dated 12-4-99 terminating the services of the first party as per the Company's Standing Order No. 19 (36) i.e. for committing theft, fraud etc. in connection with the employer's business or property. Thereupon the first party preferred an appeal with the Managing Director of the management and his appeal was dismissed as per order dated 12-11-1999.

3. The first party in his Claim Statement contended that he was working in the management company for the last 20 years with absolute zeal and interest, his work being appreciated by the management. He contended that he has been falsely implicated so as to remove him from service by issuing the above said charge sheet and his explanation to the charge sheet denying the charges levelled against him has not been considered and appreciated by the management resulting into a Domestic Enquiry and on the basis of the Domestic Enquiry findings he has been illegally removed from service. He contended that a show cause notice was issued to him on 8-3-1999 along with the enquiry report stating that charges of misconduct levelled against him have been proved and he was called upon to why he should not be dismissed from service. He gave reply dated 31-3-1999 stating that the Enquiry Officer has not appreciated the evidence on record properly and that none of the management witnesses have deposed to the effect that they have seen the recovery of theft article from the person of the first party. A false story was framed by said Manappa, the Watchman of the Company and without considering the various questions raised by the first party in his explanation to the said show cause notice he has been illegally removed from service. The appeal preferred by him was also not properly considered taking into account the points raised by him.

4. The management by its Counter Statement however, contended that on 23-12-98 as stated in the

charge sheet, the first party was found possession of above said 3 pieces of gold and accordingly in the presence of witnesses a Mahazar was drawn and on the same day the Sr. Manager, Shri B.S. Shankarappa wrote letter to the General Manager reporting about the incident of theft committed by the workman. Accordingly on 24-12-98 the management issued a charge sheet to the first party calling upon him to submit his explanation within 7 days. Thereupon the Enquiry Officer was appointed along with the Presenting Officer and enquiry notice was issued to the first party with regard to the date of enquiry and the place of enquiry and in response to the said notice the first party participated in the Domestic Enquiry. The enquiry was conducted as per the procedure laid down in the Standing Orders of the Company and according to the principles of natural justice. On conclusion of the enquiry, the Enquiry Officer submitted his findings holding that the charge of theft levelled against the first party was proved. Thereupon a notice dated 8-3-99 was sent to the first party along with the enquiry report and it was replied by the first party. The management considered his representation and not being satisfied with the same, passed impugned punishment order terminating the services of the first party. His appeal against the punishment order was also dismissed by the Appellate Authority. Therefore, the management contended that the enquiry conducted against the first party was fair and proper and the enquiry findings submitted by the Enquiry Officer were based on sufficient and legal evidence resulting into an impugned punishment order.

5. Keeping in view the respective contentions of the parties with regard to the fairness and validity or otherwise of the enquiry proceedings, my learned Predecessor took up the said question as a Preliminary Issue. During the course of trial of the said issue the management examined the Enquiry Officer as MW1 and he was cross examined on behalf of the first party. However, the first party did not choose either to enter into witness box by himself or to lead evidence to rebut the evidence of the management.

6. After hearing the learned counsel for the management (counsel for the first party retired for want of instructions) this tribunal on 5-4-05 passed orders recording a finding to the effect that the enquiry conducted against the first party by the Second Party is fair and proper.

7. From 5-4-05 till 29-6-05 case underwent several adjournments to hear the matter on merits. On 29-6-05 learned counsel for the first party filed another memo of no instructions with acknowledgement due slip to show that the notice taken by him against the first party was served. However, in the interest of justice this court thought it proper to give fresh notice to the first party and accordingly notice was sent to him under RPAD and that

was returned 'served personally upon the first party'. Even then the first party remained absent and therefore, after hearing the learned counsel for the management on 30-8-05, the case is posted this day for award.

8. Learned counsel for the management in his arguments submitted that since this court has recorded a finding to the effect that the Domestic Enquiry conducted against the first party is fair and proper, the burden now shifted upon the first party to establish before this tribunal that findings of the enquiry suffered from perversity and that punishment imposed upon him is not proportionate keeping in view the gravity of the misconduct committed by him. He submitted that since the first party has remained absent before this tribunal despite the service of notice and his counsel has also retired from the case by filing a memo of no instructions, that too, after service of the notice on the first party, this tribunal can look into the findings of the enquiry and pass the appropriate order. He submitted that there was sufficient and legal evidence brought on record before the enquiry officer which fact is evident from the enquiry proceedings as well as from the enquiry findings and therefore, it cannot be said that findings suffered from perversity. He submitted that keeping in view the seriousness of misconduct committed by the first party i. e. theft of property belonging to the management, the order passed by the management terminating his services is quite legal and proportionate not to be interfered at the hands of this tribunal.

9. On going through the records, more particularly the evidence brought on record before the enquiry officer during the course of enquiry proceedings and the reasonings assigned by the enquiry officer in his enquiry findings holding the first party guilty of the charges, I find very much substance in the arguments advanced by the management. In order to see as to whether there was sufficient and legal evidence before the enquiry officer to submit his findings holding the first party guilty of the charges, it appears to me worthwhile to bring on record the very findings of the enquiry officer running as under:—

FINDINGS

The enquiry started on 13-1-99 and concluded on 18-2-99, in connection with the charge sheet No. PDL & TR/ENQ/198 dated 24-12-98 issued to Shri Hanmappa Mill T. No. 282. The details of the charge sheet is—

(1) It is proposed to hold an enquiry against you, Shri Hanmappa Mill T.No. 282. A statement of Articles of charge, Imputation of Misconduct, the document in support of articles of charge and the list of witness in respect of the articles of charge are enclosed.

Statement of Articles of charge

Charge :— You Shri Hanmappa Mill T. No. 282 was found carrying three pieces of gold (company's property) during the Security search on 23-12-1998 at the end of your first shift at 2.25 PM and thereby committed a misconduct under Company's Standing Order No. 19 (36) and Imputation of Misconduct.

(1) You, Shri Hanumappa Mill. T. No. 282 was on duty on 23-12-1998 in the Morning Shift at Grinding Section of Metallurgical Department.

(2) At the end of the shift at about 2.25 PM at Mill door No. 4 during the search by the Security Personnel, You were found carrying three pieces of gold (company's property) weighing about 1/2 a gram wrapped in pay slip and closed diary note book in your shirt pocket. The above Security search was conducted by Shri Manappa Southern Security guard in the presence of your shift foreman Shri Fasinuddin Shift Inspector Shri Habeeb Khan, Shri B.S. Raju, Sr. Security Inspector, Shri Lingappa Mill T. No. 116, Shri Holiappa Mill T.No. 90, Shri Nijagunayya Mill T.No.317 and Shri Ramanna Mill T. No. 112.

(3) The above three confiscated gold pieces (Companies property) were sealed by the Security Personals in your presence and the four employees of your department as mentioned in para 2.

(4) You, in our statement also admitted that you have collected the above three confiscated gold pieces while on duty near the stake table No. 6 tubc mill and kept secretly in your pocket.

List of documents.

- (1) Report of Security Personnel dated 23-12-1998
- (2) Statement of Shri Hanmappa, Mill T. No. 282
- (3) Report dated 23-12-1998 of Sr. Manager, Metallurgical Department.

List of Witnesses

- (1) Shri Manappa Sourthern Security Guard
- (2) Shri Habeeb Khan, Security Inspector
- (3) Shri B.S. Raju, Sr. Security Inspector
- (4) Shri S. Fasinuddin, Shift Foreman, Mill Dept.
- (5) Shri Lingappa Mill T. No.166
- (6) Shri Holiappa Mill T. No. 90
- (7) Shri Nijagunayya Mill T. No.317

(8) Shri Ramanna Mill T. No. 112

(2) You are hereby directed to submit within seven days of the receipt of this charge sheet, a written statement in your defence to the undersigned.

(3) You are informed that an enquiry will be held if you do not admit the charges. You should therefore specifically admit or deny the charge.

(4) You are further informed that if you do not submit your written statement of defence on or before the time specified in para 2 above, it will be presumed that you admit the articles of charge and disciplinary action will be initiated in accordance with the provisions of the Company's Standing Orders.

(5) Please acknowledge the receipt of the charge sheet.

In the reply to the charge sheet dated 26-12-98 Shri Hanmappa deny charges mentioned in the Articles of Charge accordingly I was appointed as Enquiry Officer vide letter No. PD/LIR/V/98 dated 31-12-98 and Shri S.S. Eliyas, Dy. Manager (Mech) appointed as Presenting Officer.

Shri Basappa Mill 123 was permitted to assist Shri Hanmappa as Co. Worker. Ex.9.

During the enquiry proceedings on 13-1-99 the CSE Shri Hanmappa did not plead guilty. Since CSE did not plead guilty, the Presenting Officer was asked to submit the list of witnesses to be examined.

As per MW1, Shri B.S. Raju, Sr. Security Inspector statement, he detained Shri Manappa of SSG along with Shri Habeeb Khan for routine search at Post No. 12 in mill door No. 4 and Shri Manappa was carrying out search. While examination and cross examination he confirmed that he was standing near door No. 4 and observing and Shri Hanmappa came himself for search and also confirmed that the thumb impression was taken on the sealed bag before keeping in strong room.

In the statement of MW2 Shri Habeeb Khan accepted that he along with Shri Manappa of SSG were detained for routine search by Sr. security Inspector B.S Raju. Shri Hanmappa Mill T. No. 282 came himself for checking and while checking by Shri Manappa recovered three pieces of gold wrapped in pay slip closed in a diary note book kept in the left pocket of Hanmappa's shirt. Shri Habeeb Khan has seen when Manappa was taking out three pieces of gold from Hanappa's Pocket. The statement of Cross examination of MW3 Shri Manappa. SSG who reported to Hutu unit only about three months

back. In his statement, while checking Shri Hanmappa, Shri Hanmappa objected to search his left pocket then, he forced Shri Hanmappa and opened the shirt pocket wherein he found three pieces of gold wrapped in pay slip closed in diary note book. Even in his cross examination, Shri Manappa said that Shri Hanmappa did not cooperate for checking like other employees and he did not know Hanmappa earlier.

The statement and cross examination of all other management witnesses confirm that Shri Hanmappa was carrying three pieces of gold (Company's property and same was recovered from the Security Personnels while checking.

Hence it is proved that Shri Hanmappa was carrying three pieces of gold (Company's property) from the Grinding Section of the Mill Plant beyond any doubt and all the charges are proved.

10. Therefore, from the perusal of the enquiry findings, it can be very well gathered that the witnesses examined for the management namely MW 1 to 3 in no uncertain terms have spoken to the fact of personal search of the first party being taken by the Watchman, Manappa in the presence of MW2 and 3 namely, Habeeb Khan and B.S. Raju. The Enquiry Officer has discussed oral testimony of above said 3 witnesses supported by the documentary evidence namely the report of the theft and the Mahazar conducted on the spot to speak to the recovery of theft property from the person of the first party. Therefore, by stretch of no imagination it can be said that there was no sufficient and legal evidence basing the findings of the Enquiry Officer holding the workman guilty of the charges. It is in this view of the matter it must be further held that the findings of the enquiry did not suffer from perversity. Based on those findings the Disciplinary Authority had passed the order terminating the services of the first party and it cannot be said that punishment imposed upon the first party terminating his services was not proportionate and commensurate keeping in view of the gravity of the misconduct committed by him. In the result reference is answered accordingly and following award is passed.

AWARD

Reference is dismissed. No order to cost.

(Dictated to PA, transcribed by her corrected and signed me on 23rd September, 2005)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4246.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड इण्डिया इश्योरेंस कं.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाट संदर्भ संख्या 3/2001 को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-05 को प्राप्त हुआ था।

[सं. एल-17012/8/2000-आई आर(बी-II)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 3/2001 of the Industrial Tribunal, Bikaner as shown in the Annexure in the Industrial Dispute between the management of United India Insurance Co. Ltd. and their workmen, received by the Central Government on 18-10-2005.

[No. L-17012/8/2000-IR(B-II)]

B. M. DAVID, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण, बीकानेर

पीठासीन अधिकारी : श्री के. एल. माथुर,
आर. एच. जे. एस.

नं. मु. केन्द्रीय औद्योगिक विवाद प्रसंग सं. 3 सन् 2001

रामलाल पुत्र श्री सुखराम आयु 37 वर्ष, जाति कुम्हार निवासी गाँव
6 एल. एन. पी. तहसील व जिला श्री गंगानगर

प्रार्थी/श्रमिक

विरुद्ध

- (1) युनाइटेड इंडिया इश्योरेंस कंपनी लि., प्रधान कार्यालय, 24
विहटास रोड चेन्नई,
- (2) क्षेत्रीय प्रबन्धक, युनाइटेड इंडिया इश्योरेंस कंपनी लि० टॉक गेट, जयपुर
- (3) मण्डलीय प्रबन्धक, युनाइटेड इंडिया इश्योरेंस कंपनी लि.
15, राष्ट्रीय मार्ग श्री गंगानगर,

प्रसंग अन्तर्गत धारा 10 (1)(घ), औद्योगिक विवाद अधिनियम, 1947.

उपस्थिति :—

- 1 श्री लालचन्द मेहरा, अधिवक्ता, प्रार्थी श्रमिक पक्ष के लिए
- 2 श्री नन्दकिशोर गांधी, अधिवक्ता, अप्रार्थीगण के लिये

अधिनिर्णय

दिनांक 6 जुलाई, 2005

श्रम मंत्रालय, भारत सरकार द्वारा अधिसूचना क्रमांक एल. 17012/8/
2000-आई.आर. (बी-II) दिनांक 24 जनवरी, 2001 द्वारा इस

अधिकरण में औद्योगिक विवाद अधिनियम, 1947 (जिसे आगे चलकर केवल अधिनियम कहा जावेगा) की धारा 10 की उपधारा (1) के खण्ड (घ) के अधीन निम्न विवाद अधिनिर्णयार्थ भेजा था :—

‘Whether the action of the management of United India Insurance Company Limited, Shri Ganganagar in terminating the services of Sh. Ramlal s/o Sh. Sukh Ram from December, 1986 is legal & justified? If not, what relief is the disputant concerned entitled to?’

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया, पक्षकारों द्वारा अपने-अपने लिखित अभिवचन पेश किये गये हैं अर्थात् प्रार्थी श्रमिक रामलाल की ओर से प्रस्तुत स्लेम विवरण का जवाब अप्रार्थीगण नियोजक पक्ष द्वारा दिया गया है।

3. संक्षेप में, प्रकरण के तथ्य इस प्रकार बतलाये गये हैं कि प्रार्थी श्रमिक रामलाल (जिसे आगे चलकर केवल प्रार्थी श्रमिक कहा जावेगा) द्वारा इस आशय के साथ अपना क्लेम विवरण पेश किया गया है कि प्रार्थी अप्रार्थी संस्थान के श्री गंगानगर कार्यालय में चपरासी (सब स्टाफ) के पद पर दैनिक वेतन भोगी कर्मचारी के रूप में जुलाई 1985 में नियुक्त हुआ और उसने दिसम्बर 1986 तक बिना किसी व्यवधान के निरन्तर सेवा निष्ठा, ईमानदारी व लगन से की है, प्रार्थी को सेवा अवधि के लिये एक्स्ग्रेसिया का भुगतान भी किया गया, अपने सेवाकाल के दौरान उस पर कोई आरोप नहीं था और न ही किसी प्रकार के आरोप की कोई जाँच ही हुई, उसका सम्पूर्ण कार्य स्वच्छ रहा है, प्रार्थी ने एक कलेण्डर वर्ष निरन्तर 240 दिन से अधिक अवधि तक कार्य किया है फिर भी प्रार्थी को अप्रार्थीगण द्वारा बिना कोई कारण बताये, एक माह का नोटिस अथवा नोटिस वेतन व छटनी मुआवजा दिये बिना ही दिसम्बर 1986 को सेवा से पृथक् कर दिया जिसकी सूचना सरकार को नहीं दी गयी, प्रार्थी ने अपनी इस सेवामुक्ति को छंटनी बताते हुए अप्रार्थीगण द्वारा 24-12-86 से की गयी सेवामुक्ति से पूर्व अधिनियम की धारा 25-एफ, जी. एच. के प्रावधानों का उल्लंघन करने का भी आक्षेप लगाया है और यह अभिवचन किया है कि प्रार्थी व कुछ अन्य कर्मचारियों ने अपनी अवैध सेवामुक्ति के विरुद्ध यूनियन के माध्यम से माननीय उच्च न्यायालय, जोधपुर में रिट पिटीशन नं. 2405/90 पेश की जिसमें दिनांक 26-6-90 को न्यायालय ने निर्देश दिया कि सब स्टाफ पद पर नियुक्ति के समय प्रार्थी व अन्य याचियों को नियुक्ति हेतु बुलाया जाकर विचार किया जावे जिसकी पालना में अप्रार्थीगण द्वारा पत्र दिनांक 9-10-90 व 9-11-90 द्वारा दिनांक 23-11-90 को साक्षात्कार हेतु बुलाया था लेकिन दुर्भाग्यवश साक्षात्कार नहीं लिया गया जबकि वह साक्षात्कार के समय वहाँ मौजूद था और पूर्ण रूप से नियुक्त होने का पात्र था, उक्त रिट याचिका में दिनांक 4-12-96 को माननीय उच्च न्यायालय द्वारा वैकल्पिक उपचार के आधार पर खारिज करने पर प्रार्थी द्वारा समझौता प्रक्रिया के तहत प्रार्थनापत्र सहायक श्रम आयुक्त (केन्द्रीय) जयपुर के समक्ष प्रस्तुत किया जहाँ से प्रेषित असफल वार्ता प्रतिवेदन पर यह विवाद निर्णयार्थ न्यायालय में आया है, प्रार्थी सेवा मुक्ति से लेकर आज तक बेरोजगार है। अंत में सभी देय लाभों सहित सेवा में पुनः बहाल करने की प्रार्थना की गयी है।

4. अप्रार्थी नियोजक पक्ष द्वारा प्रस्तुत जवाब क्लेम में प्रकरण का प्रतिवाद करते हुए प्रार्थी को अप्रार्थी के गंगानगर कार्यालय में चपरासी/सब स्टाफ के पद पर दैनिक वेतन भोगी कर्मचारी के रूप में नियुक्त करना, उसके द्वारा जुलाई 1985 से दिसम्बर 1986 तक निरन्तर कार्य करने के तथ्यों को अस्वीकार किया है, माननीय उच्च न्यायालय के

आदेश की पालना में रामलाल प्रार्थी को रजिस्टर्ड पत्र द्वारा साक्षात्कार के लिये बुलाया जाना स्वीकार करते हुए यह जवाब दिया गया है कि प्राथमिकता देने के बावजूद उसका योग्यता में चयन नहीं हो सका, प्रार्थी नियोजित होने का पात्र नहीं है, रिट याचिका खारिज होना भी स्वीकार किया है। अतिरिक्त आपत्तियों में इस प्रकार की आपत्तियाँ भी उठायी गयी हैं कि प्रार्थी औद्योगिक श्रमिक नहीं है और अप्रार्थी उद्योग नहीं है, प्रार्थी स्वयं स्पष्ट नहीं है कि उसे किसने कब नियोजित किया और किसने निकाला तथा किससे क्या अनुतोष चाहता है और किस अप्रार्थी को क्यों पक्षकर बनाया गया है, प्रार्थी को कंपनी नियमों के अन्तर्गत कभी नियोजित नहीं किया गया है, उसे नियोजन का कोई अधिकार प्राप्त नहीं है, कंपनी में नियोजन की एक निश्चित प्रक्रिया है जिसके अन्तर्गत पद घोषित करके नियोजन कार्यालय से निर्धारित योग्यता वाले व्यक्ति का नाम नियोजन कार्यालय से निश्चित पद के लिये प्राप्त होने पर चयन समिति द्वारा नियमानुसार सक्षम अधिकारी को अपनी अनुशंसा भेजने पर उसको नियोजित करके पोस्टिंग करते हैं, प्रार्थी न तो निश्चित योग्यता रखता था और न ही उसका चयन कभी किसी पद हेतु किया गया अतः वह कोई अनुतोष प्राप्त करने का अधिकारी नहीं है, तथाकथित 1986 की अवैध सेवामुक्ति श्रावत श्रमिक ने अपना क्लेम 15 वर्ष बाद पेश किया है, अप्रार्थी के अनुसार जब भी गंगानगर में पानी भरवाने की आवश्यकता होने पर प्रार्थी को ठेके पर पानी भरने के लिए कहा जाता था और उससे जितना कार्य लिया जाता था उसका भुगतान कर दिया जाता था, प्रार्थी का कार्य चपरासी या सब स्टाफ का कभी नहीं रहा, अधिकतर रिकार्ड नष्ट कर दिये जाने व अधिकारीगण के स्थानान्तरण या रिटायरमेंट का फायदा प्राप्त करने के प्रयोजन से विवाद देरी से लाया गया है जो चलने योग्य नहीं है, प्रार्थी स्वच्छ हाथों से न्यायालय के समक्ष नहीं आया है, विवाद वर्तमान रूप में पोषणीय नहीं है। अंत में क्लेम खारिज करने की प्रार्थना की गयी है।

5. पक्षकारों द्वारा अपने-अपने पक्ष समर्थन में प्रस्तुत साक्ष्य के दौरान प्रार्थी श्रमिक स्वयं रामलाल ने अपना शपथपत्र पेश किया है, अप्रार्थी पक्ष के गवाह कुलदीप डेम्पी का शपथपत्र पेश हुआ है, प्रत्येक पक्ष द्वारा एक-दूसरे पक्ष के साक्षी से जिरह की गयी है एवम् पक्षकारों की ओर से प्रलेखीय साक्ष्य भी पेश की गयी है।

6. विद्वान पक्षकारों की बहस एवम् पत्रावली के अवलोकन से यह सामने आता है कि हमारे समक्ष लंबित इस प्रसंग के निस्तारण के लिये प्रमुख रूप से विचारणीय प्रश्न यही है कि क्या प्रार्थी श्रमिक रामलाल को दिसम्बर 1986 से सेवामुक्त करना उचित एवम् वैध है यदि नहीं तो वह किस राहत व राशि को प्राप्त करने का अधिकारी है?

इस विचारणीय बिन्दु को सिद्ध करने का भार स्वयं प्रार्थी श्रमिक पर ही था।

7. इस सम्बन्ध में साक्ष्य के दौरान प्रस्तुत अपने शपथपत्र में प्रार्थी श्रमिक रामलाल ने क्लेम के तथ्यों की पुनरावर्ती करते हुए बतलाया है कि वह अप्रार्थी सं. 3 के संस्थान में चपरासी (सब स्टाफ) के पद पर दैनिक वेतन भोगी कर्मचारी के रूप में जुलाई 1985 में 10 रु. प्रतिदिन के हिसाब से नियुक्त हुआ और उसने 1985 से दिसम्बर 1986 तक निरन्तर कार्य किया जिसका विवरण प्रदर्श डब्ल्यू. 1 है, तथा भुगतान बाबत कार्यालय टिप्पणी प्रदर्श डब्ल्यू. 2 है, प्रार्थी ने एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य अप्रार्थी सं. 3 के कार्यालय में किया है फिर भी बिना कोई कारण बताये अप्रार्थी ने दिसम्बर 1986 से सेवा से पृथक् कर दिया और ऐसा करने के पूर्व प्रार्थी को एक माह का नोटिस या नोटिस वेतन एवम् मुआवजे का भुगतान नहीं किया तथा वरिष्ठता सूची का

प्रकाशन भी नहीं किया एवम् प्रार्थी की सेवामुक्ति के बाद अप्रार्थी सं. 3 द्वारा नये श्रमिक गनी मोहम्मद, साहब्राम व देवीलाल को नियुक्ति दी गयी परन्तु प्रार्थी को इसका अवसर नहीं दिया गया। प्रार्थी द्वारा माननीय राजस्थान उच्च न्यायालय में रिट याचिका सं. 2405/90 पेश की गयी थी जिसमें आदेश दिया गया कि स्टाफ पद पर नियुक्ति के समय प्रार्थी को भी बुलाया जाकर विचार किया जावे। इस आदेश की पालना में अप्रार्थीगण द्वारा आदेश प्रदर्श डब्ल्यू. 3 व 4 के माध्यम से प्रार्थी को साक्षात्कार के लिये बुलाया गया परन्तु साक्षात्कार नहीं लिया जबकि अन्य व्यक्तियों का साक्षात्कार लिया, प्रार्थी की रिट माननीय उच्च न्यायालय द्वारा इस आधार पर खारिज कर दी गयी कि प्रार्थी को वैकल्पिक उपचार औद्योगिक विवाद अधिनियम के अन्तर्गत प्राप्त हो सकता है। इस पर प्रार्थी द्वारा समझौता प्रक्रिया के तहत कार्यवाही की गयी जहाँ से असफल वार्ता प्रतिवेदन श्रम मंत्रालय भारत सरकार को प्रेरित किया गया। गवाह ने प्रतिपरीक्षण में बताया कि उसे सबसे पहले मामराज बाबू ने काम पर रखा था तथा संभागीय प्रबन्धक जी. आर. धीर ने काम से हटाया था। यह सही है कि माननीय उच्च न्यायालय के आदेश की पालना में मुझे साक्षात्कार के लिये बुलाया था परन्तु मुझे बाहर ही बैठाये रखा तथा अन्य व्यक्तियों का साक्षात्कार लिया गया, इस बारे में मैंने संभागीय प्रबन्धक को कोई शिकायत नहीं की परन्तु यूनियन के माध्यम से शिकायत भिजवाई थी जिसकी रसीद यूनियन में भी नहीं आयी, मुझे नियोजन कार्यालय के माध्यम से नहीं बुलाया था तथा वहाँ से मेरा कार्ड भी नहीं आया था। प्रदर्श एम-1 से 95 पर ए से बी मेरे हस्ताक्षर हैं, इसका समस्त भुगतान मुझे मिल चुका है, इन वाउचर्स में क्या लिखा है मुझे पता नहीं है, मैं कक्षा-11 तक पढ़ा हुआ हूँ तथा मैंने इन सबको पढ़कर अपने हस्ताक्षर किये थे। यह सही है कि मेरी उपस्थिति स्टाफ के उपस्थिति रजिस्टर में अंकित नहीं होती थी। यह कहना गलत है कि मुझे केवल मात्र कार्यालय में पानी भरने का ठेका दे रखा हो मुझे प्राप्त: 9 बजे से 5 बजे शाम तक कार्यालय में काम लेते थे। मैंने वाउचर्स में पानी भरने के स्थान पर वेतन बाबत अंकित नहीं किये जाने का कोई एतराज नहीं किया, मुझे सन् 1986 में निकाला था और मैं 1990 में न्यायालय में आया हूँ, मुझे किसी प्रकार का ठेका नहीं दिया गया था, मेरे समय में कार्यालय में दो चपरासी थे तथा निकालने के बाद कार्यालय में दो ही आदमी थे, साक्षात्कार लेकर जो तीन आदमी रखे थे उनको अन्यत्र लगा दिया था। मैंने जनवरी 1986 से दिसम्बर 1986 तक 240 दिन से अधिक काम दिया था जिसके बाबत वाउचर्स व बोनस भुगतान प्रदर्श डब्ल्यू. 2 पेश किये हैं। यह सही है कि 1986 में मैंने 153 दिन ही काम किया है, प्रदर्श डब्ल्यू. 2 में "बोनस" शब्द अंकित नहीं है।

8. इसी सम्बन्ध में नियोजक के साक्षी कुलदीप डेम्पी का बताना है कि प्रार्थी रामलाल को कंपनी में कभी भी चपरासी के पद पर दैनिक वेतन भोगी कर्मचारी के रूप में जुलाई 1985 में नियुक्ति नहीं दी गयी थी, रामलाल की सेवायें बतौर छंटनी समाप्त नहीं की गयी तथा औद्योगिक विवाद अधिनियम की धारा 25-एफ, जी व एच का उल्लंघन नहीं किया गया, माननीय उच्च न्यायालय के आदेश की पालना में प्रार्थी को साक्षात्कार के लिये बुलाया था परन्तु वह क्वालीफाई नहीं कर सका। रामलाल समय-समय पर छोटे-छोटे कार्य के लिये ठेका लेता था जिनमें कूलर व मटके में पानी भरना एवम् सफाई आदि शामिल था एवम् यह कार्य पूर्ण करने पर उसे ठेका राशि का भुगतान कर दिया जाता था, सेवामुक्ति से पूर्व के एक वर्ष के भुगतान वाउचर प्रदर्श एम-1 से एम-95 है जो न्यायालय में प्रस्तुत किये गये हैं, जिनसे स्पष्ट होता है कि प्रार्थी ने केवल निश्चित राशि के लिये कार्य किया था और वह लगातार कार्यरत नियोजित श्रमिक नहीं रहा, अंतिम एक वर्ष में उसके द्वारा 240 दिन का

कार्य भी नहीं किया गया है तथा 24-12-86 के बाद वह कार्य पर नहीं आया, रामलाल को जब यह मालूम हो गया कि तत्कालीन अधिकारीगण जिनके पास उसने कार्य किया है वे सेवानिवृत्त हो गये या उनका स्वर्गवास हो गया तब उसने 15 वर्ष बाद विवाद उठाया है, गनी मोहम्मद, साहबराम व देवीलाल का मुकाबला रामलाल से नहीं किया जा सकता। गवाह ने प्रतिपरीक्षण में बताया है कि प्रार्थी मेरे अधीन नौकरी पर नहीं था, बल्कि वह तो ठेका पर पानी भरने के लिये बतौर वाटर ब्याय काम करता था, इसकी नियुक्ति बाबत कोई नियुक्ति पत्र नहीं निकाला था तथा प्रार्थी से बीमा कंपनी के मध्य कोई लिखित अनुबंध भी नहीं हुआ था, प्रदर्श एम-1 से एम-95 अंग्रेजी में हैं जिन्हें हमारे विभाग के कर्मचारी ने भरा है एवम् स्वयं रामलाल ने इन पर हिन्दी में अपने हस्ताक्षर किये हैं। प्रदर्श एम-59 पर सी ताडी मेरे हस्ताक्षर हैं। जुलाई 85 में प्रार्थी कभी पानी भरने के लिये आता था तथा पानी भरने की मजदूरी के पैसे देते थे। प्रार्थी को साक्षात्कार के लिये बुलाकर विचार किया गया परन्तु आयु अधिक होने के कारण इसका साक्षात्कार नहीं लिया गया। नियमानुसार सेवा में नियुक्ति के लिये साक्षात्कार के समय 26 वर्ष से अधिक की आयु नहीं होनी चाहिये। गनी मोहम्मद, साहबराम की नियुक्ति रोजगार कार्यालय के माध्यम से नाम आने पर की गयी थी।

9. विद्वान पक्षकारों की बहस एवम् पत्रावली के अवलोकन से हम देखते हैं कि प्रदर्श डब्ल्यू. 1 के माध्यम से प्रार्थी ने भी उसको भुगतान किये गये वाउचर्स का उल्लेख किया है, इससे सम्बन्धित समस्त वाउचर्स नियोजक द्वारा पेश किये गये हैं जो प्रदर्श एम-1 से एम-95 हैं इन 95 वाउचर्स पर ए तथा बी प्रार्थी ने अपने हस्ताक्षर होने एवम् वाउचर्स के माध्यम से प्रार्थी ने भुगतान होना स्वीकार किया है, प्रार्थी का कोई नियुक्ति पत्र या सेवासमाप्ति पत्र प्रस्तुत नहीं किया है, प्रदर्श डब्ल्यू. 1 पर भी नियुक्ति का कोई हवाला नहीं है, तथा प्रदर्श डब्ल्यू. 1 पर किसी अधिकारी के हस्ताक्षर एवं सत्यापन नहीं है, प्रदर्श डब्ल्यू. 2 के माध्यम से प्रार्थी को बोनस का भुगतान तो नहीं किया है परन्तु एक्सग्रेसियों भुगतान का उल्लेख अवश्य मिलता है, प्रदर्श डब्ल्यू. 2 में भी प्रार्थी द्वारा 153 दिन कार्य काने का उल्लेख मिलता है। ऐसा ही तर्क नियोजक ने दिया है कि प्रार्थी द्वारा हालांकि काम पानी भरने तथा सफाई करने का किया है और वह भी 153 दिन ही ठेके पर किया गया है, स्वयं प्रार्थी ने भी यह स्वीकार किया है कि उसकी उपस्थिति रजिस्टर में अंकित नहीं होती थी। ऐसी सूरत में इस तथ्य की पुष्टि किसी प्रकार नहीं हो सकती कि प्रार्थी ने वर्ष 1986 में अप्रार्थी के अधीन कितने दिन कार्य किया है, प्रार्थी ने उपस्थित बाबत रिकार्ड भी अप्रार्थी नियोजक से तलब नहीं करवाया है इससे ऐसा आभास मिलता है कि स्वयं प्रार्थी को यह ज्ञान था कि प्रार्थी की उपस्थिति रजिस्टर में अंकित नहीं होती है एवम् इस तथ्य को स्वयं प्रार्थी ने प्रतिपरीक्षण में स्वीकार किया है। केवल मात्र प्रदर्श डब्ल्यू. 3 व 4 कि द्वारा साक्षात्कार के लिये बुलाने से प्रार्थी को नियुक्ति का अधिकार नहीं मिलता है। स्वयं प्रार्थी द्वारा स्वीकार किये गये भुगतान वाउचर्स प्रदर्श एम-1 से एम 95 से प्रमाणित होता है कि प्रार्थी को इन वाउचर्स से माध्यम से पानी सप्लाई करने का भुगतान किया जाता था जो कभी एक दिन या कभी दो दिन का किया जाता था। प्रदर्श एम-1 से 95 तक के वाउचर्स से तो यह कहीं भी प्रमाणित नहीं होता है कि प्रार्थी ने नियोजक के अधीन नियोजित रहकर कार्य किया है। प्रार्थी ने यह भी नहीं बताया है कि उसका अंतिम कार्य दिवस क्या था, प्रार्थी ने प्रतिपरीक्षण में यह तो कहा है कि उसने जनवरी से दिसम्बर 86 तक 240 दिन से अधिक कार्य किया है परन्तु इसकी पुष्टि में कोई रिकार्ड प्रस्तुत नहीं किया है और न ही नियोजक से तलब करवाया है। प्रार्थी ने स्वयं के शपथपत्र की चरण सं. 5 में अंकित किया है कि प्रार्थी की सेवायें 24-12-86 को समाप्त कर दी गयी और उसकी

सेवामुक्ति कर दी गयी थी जबकि रैफरेन्स में सेवामुक्ति की तिथि का उल्लेख नहीं है केवल दिसम्बर 1986 से ही उल्लेख है परन्तु प्रार्थी ने अपने क्लेम प्रार्थनापत्र की चरण सं 6 में भी 24-12-86 से सेवामुक्ति करने का उल्लेख किया है परन्तु इसकी पुष्टि किसी भी रिकार्ड से नहीं होती है। जबकि नियोजक का यह तर्क है कि 24-12-86 के बाद प्रार्थी ठेके के कार्य पर नहीं आया। प्रार्थी ने किसी भी प्रमाण से यह सिद्ध नहीं किया है कि उसकी सेवायें 24-12-86 को बतौर छंटनी समाप्त की गयी जबकि नियोजक ने प्रदर्श एम-95 प्रस्तुत करके बताया है कि 24-12-86 को उसे एक दिन पानी सप्लाई करने का भुगतान किया गया था। जो स्वयं रामलाल प्रार्थी ने प्राप्त किया है। ऐसी सूरत में स्वयं प्रार्थी को ही यह सिद्ध करना चाहिये था कि वह 25-12-86 को इस कथित पानी भरने के कार्य पर उपस्थित क्यों नहीं हुआ और इसको उपस्थित होने से किसने रोका। वास्तव में किसी भी दस्तावेज से अप्रार्थी के अधीन प्रार्थी का नियोजन ही प्रमाणित नहीं होता है इस कारण प्रार्थी की उपस्थिति रजिस्टर में अंकित नहीं की जाती थी एवम् प्रार्थी ने भी उपस्थिति का कोई प्रमाण तलब नहीं करवाया है। 2001 लेब.आई.सी. 1597 में वर्कमैन अंकित भारतीय कोयला कामगार यूनियन विरुद्ध मैसर्स भारत कुकिंग कोल लि. व अन्य के प्रकरण में तथा एस.सी.टी. 1999 (2) पृष्ठ 600 में सचिव, हरियाणा राज्य विद्युत मण्डल विरुद्ध सुरेश प्रकरण में माननीय उच्चतम न्यायालय द्वारा तथा 1983 लेब.आई.सी. 369 में माननीय केरला उच्च न्यायालय द्वारा एवम् 2004 लेब.आई.सी. 597 में माननीय आंध्र प्रदेश उच्च न्यायालय द्वारा प्रतिपादित सिद्धान्तों का लाभ प्रार्थी श्रमिक को नहीं दिया जा सकता। बहस के दौरान विद्वान अधिवक्ता अप्रार्थी नियोजक की ओर से 2004 डी.एन.जे. 857 में म्युनिसीपल कॉरपोरेशन फरीदाबाद विरुद्ध श्री निवास के प्रकरण में माननीय उच्चतम न्यायालय द्वारा तथा 2002 (II) सी.एल.आर. 1043 में गिरधर गोपाल सैनी विरुद्ध औद्योगिक न्यायाधिकरण व अन्य और 2000 (I) सी.एल.आर. 901 में राजेन्द्र सिंह सोलंकी विरुद्ध राँ एण्ड फिनिशिंग प्रोडक्शन व अन्य के प्रकरणों में माननीय राजस्थान उच्च न्यायालय द्वारा प्रतिपादित सिद्धान्त पर भरोसा किया है।

10. उपरोक्त विवेचन के सन्दर्भ में हम देखते हैं कि अप्रार्थी नियोजक के अधीन प्रार्थी अपनी नियुक्ति एवम् 24-12-86 से की गयी सेवामुक्ति को किसी भी रूप में प्रमाणित नहीं कर सका है तथा प्रार्थी नियोजक के अधीन कार्य करना भी प्रमाणित नहीं कर सका है एवम् यह भी प्रमाणित नहीं कर सका है कि उसने कथित सेवामुक्ति 24-12-86 से पूर्व एक कलेण्डर वर्ष में अप्रार्थीगण के अधीन 240 दिन से अधिक कार्य किया है, इन हालात में यह नहीं कहा जा सकता कि अप्रार्थीगण द्वारा प्रार्थी को अवैध या अनुचित रूप से सेवामुक्ति किया गया है, प्रार्थी कोई राहत और राशि प्राप्त करने का अधिकारी नहीं है।

11. अतः केन्द्रीय सरकार द्वारा प्रेषित इस प्रसंग को उत्तरित करते हुए यह पंचाट इस प्रकार से पारित किया जाता है कि प्रार्थी श्रमिक रामलाल अप्रार्थी यूनाइटेड इंडिया इश्योरेंस सं. के अधीन अपनी नियुक्ति एवम् 24-12-86 से की गयी सेवामुक्ति को किसी भी रूप में प्रमाणित नहीं कर सका है तथा प्रार्थी नियोजक के अधीन कार्य करना भी प्रमाणित नहीं कर सका है एवम् यह भी प्रमाणित नहीं कर सका है कि उसने कथित सेवामुक्ति 24-12-86 से पूर्व एक कलेण्डर वर्ष में अप्रार्थीगण के अधीन 240 दिन से अधिक कार्य किया है, इन हालात में यह नहीं कहा जा सकता कि अप्रार्थीगण द्वारा प्रार्थी श्रमिक रामलाल को अवैध या अनुचित रूप से सेवामुक्ति किया गया है, प्रार्थी कोई राहत और राशि प्राप्त करने का अधिकारी नहीं है।

उक्त अधिनियम प्रकाशनार्थ अधिनियम की धारा (7)(1) के अन्तर्गत केन्द्रीय सरकार को भेजा जावे।

के. एल. माथुर, न्यायाधीश

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डालमिया मैग्नेसाइट कार्पो. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट संदर्भ संख्या 135/2003 को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-05 को प्राप्त हुआ था।

[सं. एल-27011/5/2003-आई आर(विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 135/2003 of the Industrial Tribunal-cum-Labour Court Chennai as shown in the Annexure in the Industrial Dispute between the management of Dalmia Magnesite Corporation and their workman, received by the Central Government on 18-10-2005.

[No. L-27011/5/2003-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 5th September, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 135/2003

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Dalmia Magnesite Corporation and their workmen).

BETWEEN:

1. The Deputy General Secretary,
Magnesite National Labour Union,
Salem,
2. The General Secretary,
Magnesite Thozhilalar Munnetra Sangam,
Salem,
3. The General Secretary,
Salem District Magnesite Labour Union,
Salem.

I Party/Claimant

AND

The General Manager,

Dalmia Magnesite Corporation,
Salem.

II Party/Management

APPEARANCE:

For the Petitioner : Mr. S. Vaidyanathan &
M. Rajendran, Advocate

For the Management : Mr. M.R. Raghavan, Advocate

AWARD

The Central Government, Ministry of Labour vide order No. L-27011/5/2003-IR(M) dated 21-08-2003 has referred this Industrial Dispute to this Tribunal for adjudication. The Schedule mentioned in that order is:—

“Whether the action of the management of Dalmia Magnesite Corporation in paying the *ex-gratia* for the accounting year 2001-02 only at the rate of 6 per cent is justified? If not, to what relief they are entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 135/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The 1st Petitioner Union has filed Claim Statement which is adopted by the 2nd and 3rd Petitioner Unions, wherein it is alleged that the workmen of Dalmia Magnesite Corporation have been paid *ex-gratia* payment in addition to minimum bonus of 8.33% even in the absence of available surplus under the Payment of Bonus Act in the every concerned year as customary and it constituted condition of service as a concession in usage. While so, the Respondent/Management denied the existing customary payment of *ex-gratia* to workmen for the year 2001-02. Denying the payment of *ex-gratia* amounts to effecting change in the service conditions of workmen without giving notice under section 9A of the I.D. Act and thereby the Respondent violated the provisions of Industrial Disputes Act. The 4th Schedule of I.D. Act item 8 says that withdrawal of any customary concession or privileges or change in usage is falling under conditions of service. Over a decade, the Respondent/Management has paid *ex-gratia* which was in practice as customary concession as a gesture of goodwill and in order to maintain higher productivity, industrial peace and harmony. It was paid to the workman and denial of the same for the year 2001-02 clearly amounts to change in condition of service. Further, in the last eight years the employees were given *ex-gratia* payment pursuant to bilateral negotiation and the Respondent gave *ex-gratia* payment even though the Corporation suffered loss. Even in the year 2001-02 the loss has come down but the Respondent/Management unilaterally declared 6% *ex-gratia* without any bilateral negotiation. *Ex-gratia* is not out of gratis not out of sweet will of the management but a product of bargaining between the workmen and the management and regarded as a legitimate annual concessional payment beyond the provisions of Payment of Bonus Act for higher productivity and industrial peace and harmony which cannot be denied

to workmen, who are enjoying for over a decade by custom, usage, practice which has become a condition of service. Therefore, the Petitioner Union prays that as the employees are entitled to 8.33% *ex-gratia* payment for the accounting year 2001-02, the Respondent/Management may be directed to pay the balance *ex-gratia* payment @ 2.33% on the earned wages with costs.

4. As against this, the Respondent in its Counter Statement contended that no doubt, the *ex-gratia* payment has been paid to employees on the basis of settlements. But these settlements have been entered into under section 18(1) of I.D. Act and a perusal of these settlements would clearly show that it was agreed by the unions that *ex-gratia* payment for that year would not be quoted as a precedent in future negotiations. In effect, the *ex-gratia* payment has not been treated by Respondent/Management as a right vested with the unions. Further, this *ex-gratia* payment was granted on the basis of various factors like profit and loss of the company, cash flow, financial position, production, sales tax etc. Therefore, the demand of *ex-gratia* payment cannot be substantiated in law. It is neither a statutory condition nor a part of conditions of service. It has always been treated to be a discretionary payment. In the year 2001-02 the Respondent/Management has offered 6% by way of *ex-gratia* payment. Since the production and sales of Dead Burnt Magnesite and Magnesia Carbon Bricks from 1998-99 to 2001-02 were deteriorating market condition, the management has decided to give only 6% *ex-gratia*. Further, due to continuous and accumulated loss of Rs. 52.54 crores over a period of ten years, the Respondent/Management was unable to offer any amount towards *ex-gratia*. Therefore, the Respondent is not in a position to offer anything more than 6% by way of *ex-gratia* payment. The union cannot claim *ex-gratia* as a matter of right. No right statutory or otherwise is in favour of the union on the basis of which such a demand could be made. Further, the payment of *ex-gratia* would not form part of conditions of service and therefore, there is no necessity for the management to follow Section 9A of the I.D. Act before effecting any change. Further, it would not amount to any withdrawal of customary concession or privilege or change in usage as found in Item 8 of IV Schedule. Since the demand raised by the Petitioner Union is not in accordance with law and the cause is not clearly espoused, the claim itself is not legitimate and therefore, the Respondent prays to reject the claim with costs.

5. Under these circumstances, the points for my consideration are :

- (i) "Whether the action of the Respondent/Management in paying *ex-gratia* for the accounting year 2001-02 only @ 6% is justified?"
- (ii) "To what relief the members of Petitioner Unions are entitled?"

Point No. 1 :

6. The case of the Petitioner in this case is that the workmen of the Respondent/Management have been paid

ex-gratia payment in addition to minimum bonus of 8.33% even in the absence of available surplus under Payment of Bonus Act in the every concerned year as customary and it constituted condition of service as a concession in usage and this was in practice as customary concession, as a gesture of goodwill and in order to maintain higher productivity, industrial peace and harmony and therefore, certain percentage on annual gross wages, varying year to year and *ex-gratia* payment was paid and denial of this custom for the year 2001-02 amounts to change in condition of service under section 9A of the Industrial Disputes Act and without giving notice, the Respondent/Management cannot change the condition of service, as such, the Petitioner Union is entitled to the claim made by them. Further, it is the contention of the Petitioner that for the accounting year 1997-98 *ex-gratia* amount was paid @ 8.37% on the earned wages and for the accounting year 1998-99, *ex-gratia* payment was @ 8.67% on the earned wages and for the accounting year 1998-99 *ex-gratia* amount was paid @ 8.67%. Similarly for the accounting year 1999-2000 *ex-gratia* amount was paid @ 15% on the earned wages. Even though the demand of the Union was more than 20% of *ex-gratia* payment over and above the statutory bonus under the Payment of Bonus Act, taking into account the loss, the Respondent/Management and the union through bilateral discussion agreed to pay and accept the minimum @ 8.33% bonus plus *ex-gratia* at different rates mentioned above. But, in this case, the Respondent has unilaterally declared 6% *ex-gratia* without any bilateral negotiation and therefore, it is illegal and the Petitioner Union asked the balance *ex-gratia* payment @ 2.33% on the earned wages.

7. But, as against this, the Respondent contended that even in the settlement entered into every year, it is clearly indicated that it was agreed by the union that *ex-gratia* payment for that year would not be quoted as a precedent in future negotiation and in effect, the *ex-gratia* payment has not been treated by the Respondent/Management as a right vested with the union and the said *ex-gratia* payment was given on the basis of various factors like profit and loss of the company, cash flow, financial position, production, sales tax etc. The *ex-gratia* payment is neither a statutory condition nor a part of conditions of service and it has always been treated to be a discretionary payment. For the accounting year 2001-02 the Respondent/Management offered 6% by way of *ex-gratia* payment. Since the production and sales of Dead Burnt Magnesite and Magnesia Carbon Bricks were in deteriorating market condition and further due to the continuous and accumulated loss of Rs. 52.54 crores over a period of ten years, the Respondent/Management was unable to offer any amount towards *ex-gratia* and therefore, it is fixed @ 6% by way of *ex-gratia*. Under such circumstances, it cannot be proper on the part of the Petitioner Unions to demand more than 6% by way of *ex-gratia*. It is further contended on behalf of the Respondent that payment of *ex-gratia* would also not form part of the conditions of service and consequently there would not be any necessity for the Respondent/Management to

follow Section 9A of the Industrial Disputes Act, before effecting any change. Further, it would not amount to withdrawal of any customary concession or privilege or change in usage as found in item 8 of IV Schedule.

8. On behalf of the Petitioner, the General Secretary of the 1st Petitioner Union was examined as WW1 and through him copy of the letter of union to Assistant Labour Commissioner (Central) dated 8-11-02 is marked as Ex. W1. Copy of the letter of Petitioner Union to Respondent/Management dated 8-11-02 is marked as Ex. W2 and he also produced copy of bye-laws of their union as Ex. W3. Xerox copy of the minutes of Executive Committee meeting dated 1-10-01 and 7-11-01 are marked as Ex. W4 and W5 respectively. As against this, on the side of the Respondent the Manager (Personnel) of the Respondent/Management was examined as MW1 and through him copy of the allocable surplus statement for the year 2001-02 is marked as Ex. M1. Copy of the profit and loss account and Balance Sheet as on 31-3-02 is marked as Ex. M2. Copy of the list showing number of employee who received the *ex-gratia* is marked as Ex. M3. Xerox copy of the statement regarding *ex-gratia* payment from 1996-97 to 2001-02 is marked as Ex. M4. He also produced copy of the settlement entered into between the Respondent/Management and Petitioner Union under section 18(1) of the Industrial Disputes Act which is marked as Ex. M5 and the copy of the statement showing production and sales figures from the year 1998-99 till 2002-03 is marked as Ex. M6.

9. Learned counsel for the Petitioner contended that even though the Respondent/Management was running loss from the year 1989-90, they have paid *ex-gratia* and it was decided in the bilateral settlements. Only for the accounting year 2001-02 the Respondent/Management has unilaterally decided to pay *ex-gratia* which is not proper on the part of the Respondent/Management and further the payment of *ex-gratia* is not out of gratis not out of sweet will of the Respondent/Management but a product of bargaining between workmen and the management and regarded as a legitimate annual concessional payment beyond the provisions of Payment of Bonus Act and it was given for higher productivity, industrial peace and harmony which cannot be denied to workmen who were enjoying for over a decade by custom, usage, practice which has become a condition of service, which cannot be altered by denial of the same to the detriment of the workmen without giving notice under section 9A of the Act.

10. Though, I find some force in the contention of the learned counsel for the Petitioner, it was not shown before this Tribunal that minimum *ex-gratia* @ 8.33% is to be paid as a custom, usage and practice which is a condition of service, which cannot be altered unilaterally. But, in this case, the Respondent/Management has established through their documents that for the past ten years, the accumulated loss for the Respondent/Management is more than Rs. 52.54 crores. No doubt, the payment of *ex-gratia* is neither a statutory condition nor part of the conditions of service, by a customary practice it becomes condition of service. But, on that ground, we cannot say that 8.33% of *ex-gratia* (basing on the salary) is not a custom or usage or practice. From the chart given by the Respondent/

Management, it is clear that it is varied from 8.33% to 15% on the earned wages. Though, I accept that payment of *ex-gratia* over a decade was in practice is a customary concession, it was varying year to year and therefore, giving a lesser percentage of *ex-gratia* cannot be questioned by the Petitioner Unions, because, it was not established before this Tribunal that there was a minimum percentage of *ex-gratia* to be paid by the Respondent/Management. They themselves have admitted that *ex-gratia* payment is varied from year to year and as pointed out by the learned counsel for the Respondent that payment of *ex-gratia* was offered on the basis of profit and loss of the company, cash flow, financial position, production and sales etc. and during the continuous period of ten years the accumulated loss of the Respondent/Management was Rs. 52.54 crores and therefore, the Respondent/Management was unable to offer any amount towards *ex-gratia*. Any how, as a goodwill during the year 2001-02 the Respondent offered 6% *ex-gratia* which was accepted by the employees of the Respondent/Management. Though, it is alleged that the members of the Petitioner Unions have received *ex-gratia* under protest, no document was produced before this Tribunal that they have received the said *ex-gratia* amount under protest. Under such circumstances, the claim of the Petitioner Unions that payment of 8.33% of *ex-gratia* on earned wages is not maintainable.

11. As I have already pointed out that though the payment of *ex-gratia* in addition to bonus payable under Payment of Bonus Act for over a decade was in practice as customary concession, it is not established before this Tribunal that there was a minimum percentage of *ex-gratia* is to be paid by the Respondent/Management. As such, the payment of *ex-gratia* made by the Respondent @ 6% on the earned wages is just and proper under the circumstances shown before this Tribunal. As such, I find the payment of *ex-gratia* made by the Respondent/Management for the accounting year 2001-02 @ 6% is justified.

Point No. 2 :

The next point to be decided in this case is to what relief the members of the Petitioner Unions are entitled ?

12. In view of my foregoing findings, I find the members of the Petitioner Unions are not entitled to any relief as claimed by these Petitioners. No Costs.

13. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 5th September, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Claimant	: WW1 Sri V.K. Nallamuthu
For the II Party/Management	: MW1 Sri A. Paul Guruswamy

Documents Marked :

For the I Party/Claimant :

Ex. No.	Date	Description
W1	08-11-02	Xerox copy of the letter from 1st Petitioner Union to Assistant Labour Commissioner (Central).
W2	08-11-02	Xerox copy of the letter from 1st Petitioner Union to Respondent/ Management.
W3	Nil	Xerox copy of the bye laws of Petitioner Union.
W4	01-10-01	Xerox copy of the minutes of Executive Committee Meeting.
W5	07-11-01	Xerox copy of the minutes of Executive Committee Meeting.

For the II Party/Management :

Ex. No.	Date	Description.
M1	31-03-02	Xerox copy of the statement showing allocable surplus for 2001-02.
M2	31-03-02	Xerox copy of the profit and loss account and balance sheet As on 31-3-02.
M3	23-12-04	Xerox copy of the statement of number of employees Received ex-gratia with date of payment.
M4	23-12-04	Xerox copy of the statement regarding ex-gratia from 1996-97 to 2001-02.
M5	17-02-01	Xerox copy of the settlement under section 18(1).
M6	23-12-04	Xerox copy of the statement of production and sales figures of Respondent/Management.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डिया सीमेन्ट्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 40/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-29011/10/1998-आई आर(विधि)]

बी.एम. डेविड, अवसर सचिव

New Delhi, the 18th October, 2005

S.O. 4248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 40/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of The India

Cements Ltd. (Sankari Works) and their workmen, received by the Central Government on 18-10-2005.

[No. L-29011/10/1998-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday, the 17th May, 2005

PRESENT :

K. Jayaraman, Presiding Officer

Industrial Dispute No. 40/2002

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14) of 1947, between the Management of M/s. India Cements Ltd. and their workmen)

BETWEEN :

The General Secretary, : I Party/Claimant
The India Cements Employees' Union

AND

The General Manager, : II Party/Management
M/s. India Cements Ltd.
Sankari West, Salem.

APPEARANCE :

For the Claimant : M/s. Row & Reddy,
Advocates

For the Management : M/s. S. Jayaraman,
H. Balaji &
V.V. Balasubramanian,
Advocates.

AWARD

The Central Government, Ministry of Labour *vide* order No. L-29011/10/98-IR(M) dated 9-04-2002 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the industrial dispute raised by India Cements Employees Union against the management of the India Cements Ltd. over the action of management in retiring mine workers on their attaining the age of 58 years is justified? If not, to what relief the concerned workmen are entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 40/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows :—

The Petitioner Union espouses the cause of the Respondent/Management's employees in retiring the workmen on their attaining the age of 58 years and according to the Petitioner Union, it is not justifiable as the workmen of the Respondent/Management in another mines namely mines at Thalaiyuthu the retirement age of mines workers is 60 years. The Respondent/Management have got number of factories, one at Sankari (West) in Salem and another at Thalaiyuthu in Tirunelveli district. They have got limestone mines both at Sankari and at Thalaiyuthu and another place. The age of retirement of workers at factory and mines at Thalaiyuthu is 60 years, but the workmen working in limestone mines at Sankari West are retiring on completion of 58 years of age. Previously the workers of Sankari mines were under the work of M/s. Star Construction & Transport Company and these workers were absorbed by the Respondent/Management by a settlement dated 8-6-78 w.e.f. 1-4-1978. No doubt, when they worked under M/s. Star Construction & Transport Company their retirement age was 58 years according to the certified standing orders. Even here, there was a provision to relax the rules in individual cases and retain the services of the workmen upto 60 years, if the worker is physically fit and mental alert. After the settlement dated 8-6-78 the Respondent/Management agreed to take the workers who have been employed by M/s. Star Construction & Transport Company as workers of India Cements Ltd. w.e.f. 1-4-78. Therefore, there was no justification to retire the workers of mines at the age of 58 years because the age of retirement of factory workers is 60 years. Even under settlement dated 8-6-78 the Respondent/Management while absorbing the workers had agreed to give continuity of service and the same terms and conditions of the service of regular workers of India Cements Ltd. According to the certified standing orders of India Cements Ltd. Sankari (West) for its factory workers, the age of retirement is 60 years. The Petitioner Union after making several representations to the Respondent/Management to revise the age of retirement to 60 years to those workers in mines also, they have raised an industrial dispute. Though the conciliation officer has sent failure of conciliation report, the Govt. initially declined to refer the dispute for adjudication and after the Writ Petition filed by the Petitioner Union, the Central Govt. has referred this matter to this Tribunal for adjudication. There is no justification in retiring its workers working in limestone mines at 58 years, when the age of retirement of workers in factory is 60 years. Further, when the Respondent/Management has agreed to abide by the same terms and conditions as applicable to India Cements Ltd. there is no justification to retire them at the age of 58 years. Furthermore, for the workmen of Respondent/Management at Thalaiyuthu, the retirement age is only 60 years. After the absorption by the Respondent/Management, there cannot be two different age of retirement for the workers working in mines and in factory. Therefore, the Petitioner Union prays to pass an award stating the age of retirement of workmen of

Sankari (West) Mines is to be 60 years and the action of Respondent/Management in retiring them at 58 years as illegal and discriminatory and unjustified.

4. As against this, the Respondent/Management has contended that the reference made by the Govt. is invalid and incompetent in law. The dispute was raised by the Petitioner Union after a long lapse of 20 years and therefore, the reference made by the Govt. is stale. No doubt, the Respondent/Management is having a factory at Sankari, which is engaged in manufacture of cement. On 8-6-78 a settlement was reached between the M/s. Star Construction & Transport Company and the union and management of India Cements Ltd. Pursuant to which about 1753 employees and 395 contract workers of M/s. Star Construction & Transport Company were absorbed by Respondent/Management. It is significant to note that as per clause 1 of the above mentioned settlement, employees of M/s. Star Construction & Transport Company was absorbed by India Cements Ltd. on the same terms and conditions as existed. They have also given the wages, allowances etc. as per the Cement Wage Board Award and also honoured the earlier agreement/settlement between the management of M/s. Star Construction & transport company and their workmen after taking them into the rolls of the India Cements Ltd. Therefore, the Respondent/Management fully honoured the terms and conditions of the settlement dated 8-6-78. Therefore, the claim of the Petitioner that the employees who are retiring from quarry shall be 60 years and not 58 years is not tenable. The standing orders of M/s. Star Construction & Transport Company was being adopted in respect of those employees, even after they were taken over and absorbed by Respondent/Management. As per the standing orders, the age of retirement was 58 years for quarry workers and as per clause of the said settlement dated 8-6-78 the Respondent adopted the same terms and conditions as per the standing orders. When the Respondent/Management had been submitted for certain amendments to the certifying officer namely the Regional Labour Commissioner (Central) Chennai, who by his order dated 16-5-85 rejected the application for amendment by referring to Section 10(2) of Industrial Employment Standing Orders Act. Even the Petitioner Union has given a representation on 23-1-92 to the Respondent/Management wherein they have categorically admitted that the standing orders of M/s. Star Construction & Transport Company would be applicable to employees who have been absorbed from M/s. Star Construction & Transport Company pursuant to the settlement dated 8-6-78. The Petitioner Union has raised a similar dispute before the conciliation officer in respect of which the age of retirement claiming that it should be 60 years for certain personnel engaged in mines. The Govt. by its letter dated 13-1-96 decline to refer the matter for adjudication and the order of Govt. has not been challenged in any forum. Even though the Govt. has referred the matter for adjudication as held by the Hon'ble High Court in W.P. No. 14767/98, it is open to the parties to

question the validity of reference. It is false to contend that the standing orders of Respondent shall apply to mine workers and not the Mines Standing Orders. The day to day work practice of mines is totally different from that of the factory including the entry exit and shift time etc. The legislation regarding mines cannot be applied to the factory and the factory's legislation cannot be applied to the mines. The working in mines is totally different and more hazardous than working in factory. The worker in mines should be medically fit and produce fitness certificate once in five years and therefore, they cannot be compared with. Further, there are two different sets of standing orders existed and continued to exist even today at factory and mines respectively. The Petitioner Union relying upon these standing orders of M/s. Star Construction & Transport Company demanded leave facilities as per clause 10(a) in the year 1990 and thus, they have accepted the said standing orders of the M/s. Star Construction & Transport Company for well over twenty years. Therefore, there is no *bonafide* on the part of the Petitioner Union in raising this dispute and hence the reference is incompetent and liable to be rejected. There has been periodical statements between the Indian National Cement Workers Federation and the Cement Manufacturing units on the charter of demands. In a settlement reached on 31-7-92, it clearly shows that the demand for the age of retirement at 65 years had not been acceded to and the same does not form part of the settlement. Similarly even though the demand was made on 14-6-95 on all issues including that of age of retirement by Indian National Cement Workers Federation, in which the Petitioner Union is also a member of the union, in that settlement also there was no agreement for age of superannuation as 65 years as per the demand made by the Petitioner Union. Further, a similar demand was made by the federation for the age of superannuation at 65 in the year 2000 and it was culminated in settlement dated 14-8-2000 w.e.f. 1-4-2000 and this settlement was valid for a period of four years from 1-4-2000. Here also the demand for age of superannuation has not been agreed upon and the existing service conditions continued to operate. Therefore, the issue which has been referred to for adjudication is covered by settlement in All India level and therefore, the present dispute raised by the Petitioner is bad and incompetent, in view of the subsisting settlement. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In reply to the Counter Statement, the Petitioner Union in its reply statement contended that the reference is valid in law and the dispute is not stale since it affects the rights of the workers employed in mines of the Respondent. It is false to allege that the Respondent/Management had fully honoured the terms and conditions of the settlement dated 8-6-78. Even in standing orders of M/s. Star Construction & Transport Company the workmen are entitled to retire at the age of 60 years if they are found to be medically fit. Thus, the option for extending

the age of retirement was always available with the erstwhile employer and it was not strictly fixed as 58 years. Once they have become the employees of India Cements, it is pointless for the Respondent/Management to continue to quote the certified standing orders of M/s. Star Construction & Transport Company. After having absorbed the workmen of the Petitioner Union the Respondent/Management cannot follow the standing orders of M/s. Star Construction & Transport Company. Otherwise, it will lead to an anomalous situation where the employees of one establishment will be having two sets of service conditions. The very purpose of Industrial Employment Standing Orders Act, 1946 is to secure uniformity in the service conditions of the workers and under such circumstances, the contention of the Respondent/Management is without any merits. The conditions to be followed under Mines Act applies to all workers employed in mines including those employed at Sankari. Even though, the Respondent/Management mentioned the All India level settlements, those settlements do not have any bearing on this case as they relate to age of superannuation as 65 years. Moreover, the issue raised in this dispute was never raised in any manner and hence those settlements cannot be quoted against the Petitioner. Hence, the Petitioner Union Prays that an award may be passed in their favour.

6. Again, the Petitioner in their additional claim statement has contended that without prejudice to the contention made by the petitioner in the claim statement, the Petitioner Union contended that even in M/s. Star Construction & Transport Company standing orders clause 17 (c) says that even though the retirement age is 58 years in individual cases depending upon the physical fitness and mental alertness, they can be retained upto 60 years. Even in such cases, the Respondent cannot contend that the retirement age should be 58 years in Sankari mines. Without prejudice to their contention, the Petitioner alternatively pleads that all mine workers on reaching the age of 58 years should be sent for medical examination to the District Medical Officer and if they are found medically fit, they should be continued till 60 years. Therefore, the Petitioner Union alternatively prays that mines workers of Sankari before reaching the age of 58 years should be sent for medical examination by District Medical Officer and in case, they are found fit, they should be continued till 60 years.

7. As against this, the Respondent in its additional counter statement contended that the additional claim statement filed by the Petitioner Union clearly goes out of the issue that has been referred to for adjudication and goes beyond the scope of reference. The above relief which has been asked for also amounts to enlarging the scope of very reference itself which is not permissible in law. A perusal of standing orders of M/s. Star Construction & Transport Company clearly shows that workers shall retire at the age of 58 years and the management is vested with the discretion to relax the rule in individual cases and

retain a worker in service upto 60 years only if it is found that the worker is physically fit and mentally alert and the Petitioner Union by this additional Claim Statement wants to remove the discretion vested with the Respondent/Management which is virtually amounts to a total amendment to the standing orders, which cannot be entertained at all in this present dispute. The standing orders which has been duly certified years back enable the employer for sending individual workers for medical examination and if they are found medically fit they will be absorbed. The present attempt of the Petitioner union is only to amend the standing orders in the present dispute, which is not permissible in law. Hence, for all these reasons the Respondent prays the claim may be dismissed with costs.

8. In these circumstances, the points for my consideration are—

- (i) "Whether the industrial dispute raised by the Petitioner Union against the Respondent over the action of the Respondent/Management in retiring mine workers on their attaining the age of 58 years is justified?
- (ii) "To what relief, the concerned workmen are entitled?"

Point No. 1

9. The contention of the Petitioner Union in this Industrial Dispute is that the Respondent/Management namely India Cements Ltd. have got factory and mines at Thalaiyuthu, similarly they have got mines and factory at Sankari. While admittedly the age of retirement of workmen at factory and mines at Thalaiyuthu is 60 years and the workmen at factory at Sankari is 60 years, whereas when it comes to mines at Sankari the workmen have been retiring at the age of 58 years. No doubt, earlier the Sankari mines was with the contractor namely M/s. Star Construction & Transport Company and in the standing orders of the M/s. Star Construction & Transport Company it is mentioned that the age of retirement of mine workers is 58. But after the Respondent/Management has taken over the M/s. Star Construction & Transport Company, it is not valid to retire the workers at the age of 58 years in mines. Hence, the Petitioner Union raised the dispute that the retirement age should be 60 years as in the case of Thalaiyuthu mines because, both these mines after the settlement dated 8-6-78 namely Ex. W2 have been with the same employer. Further, it is contended on behalf of the Petitioner Union that clause 1 of the Ex. W1 settlement dated 8-6-78 states that employees were taken over by India Cements Ltd. who will be entitled to the same terms and conditions of employment as in the Respondent/Management including wages, D.A., Bonus, and other amenities with continuity of service. Therefore, denying the benefit to workmen with regard to retirement age is illegal. Thirdly, it is contended on behalf of the Petitioner that even in the standing orders of M/s. Star Construction & Transport Company namely Ex. W5 it is stated it is not open to the management to continue or

retain any worker upto 60 years if he is found physically fit. Therefore, in the alternative the Petitioner union prays that all the workmen who reaches the age of 58 years should be sent for medical examination and if he is found fit, he should be continued till 60 years.

10. On behalf of the Respondent it is contended that the factory and mines are two distinct and separate entities. The factory being governed by Factories Act and the mines are governed by Mines Act and Rules. Therefore, the standing orders of the factory cannot be applicable to mine workers. Even in Thalaiyuthu factory of the Respondent/Management the factory and mines have separate standing orders. It is also contended on behalf of the Respondent that even with regard to other cement companies in respect of mines and factories, they have got separate standing orders and therefore, they cannot compare the retirement age of factory with that of mines employees. It is further contended on behalf of the Respondent that the reference itself is incompetent in law because the issue is covered by subsisting settlement dated 14-8-2000 which is still in force and continues to be in operation. On behalf of the Respondent it is further argued that All India Cement Employees Federation had several charter of demands which includes fixation of age of retirement as 65. The said charter of demand culminated into settlement dated 12-7-96 and subsequently on 14-8-2000. A perusal of such settlement, is in force now clearly says that all the existing service conditions, benefits and privileges which are not altered in this settlement will continue to be operative till revised as mutually agreed to. Thus, this clause clearly bars the present reference, the demand for 65 years as the age of retirement has been given up by workman themselves at the All India level and they specifically agreed for the existing condition to continue, till it is altered. This settlement dated 14-8-2000 continues to govern the parties and therefore, the workmen in this case are not entitled to claim any relief when the subsisting settlement is in vogue. In this case, it is not disputed by the Petitioner Union that their union is affiliated to All India Cement Federation, which is a party to settlement dated 14-8-2000 and also earlier settlements and therefore, it is not open to the Petitioner Union or workmen concerned to raise this plea. Again, on behalf of the Respondent it is contended that the reference itself is highly belated. The standing orders of M/s. Star Construction & Transport Company is binding on both parties, which came into existence in the year 1965. It is also admitted that the same is in force for the past 40 years. The Petitioner Union itself took the stand in Ex. M5 which is a letter of the Petitioner Union to Regional Labour Commissioner (Central) that the M/s. Star Construction & Transport Company standing orders alone is applicable to them and therefore, the workmen in this case and the management have accepted, agreed and acquired to the fact that standing orders of M/s Star Construction & Transport Company alone will govern the conditions of age of retirement. It cannot contend that after a long lapse of time they can raise this issue before this forum. Further,

out of five unions existing in India Cements only the Petitioner Union have raised this dispute that too after twenty years in a highly belated manner. Hence, the reference itself is stale, highly belated and therefore, it is liable to be rejected.

11. In this case, in order to substantiate the contention, the Petitioner has examined two witnesses namely Sri P.R. Narayanan, President of the Petitioner Union as WW1 and Sri S.K. Palaniappan, General Secretary of the Petitioner Union as WW2 and on the side of the Respondent, Exs. W1 to W19 were marked. On behalf of the Respondent, one Mr. V. Paramasivam who was working as officer, time office was examined as MW1 and on their side Exs. M1 to M16 were marked.

12. The witnesses who were examined on behalf of the Petitioner have stated that the Respondent/Management on 31-3-78 has agreed to take the mines employees under M/s. Star Construction & Transport Company for which they have issued a notice, copy of the notice is marked as Ex. W1 and even in that notice they have stated that the working conditions, wages, allowances and connected matters will be settled through negotiation and subsequently on 8-6-78 they have entered into a settlement, copy of which is marked as Ex. W2 and through which they have agreed that the workers of mines will be entitled to all benefits as that of factory workers and they have also agreed that if the workers have got any extra benefits under M/s. Star Construction & Transport Company, they will provide the same to workers of mines. No doubt, the Respondent/Management has requested new standing orders unilaterally which was rejected by the Regional Labour Commissioner on the representation of the union. It cannot be said that as per the standing orders, the workers have to retire at the age of 58 years because the Respondent has got mines at Thalaiyuthu and the workers in the mines at Thalaiyuthu are doing the same work as that of the workers of the Petitioner union and when the workers of mines at Thalaiyuthu are retiring at the age of 60 years, it cannot be denied the benefit of retirement age at 60 years to the workmen at Sankari mines. Further, it will lead to anomalous situation where the employees of one establishment namely workmen in Sankari mines and workmen in Thalaiyuthu mines will be having two sets of conditions of service which is deprecated by the Supreme Court in the case reported in 1966 I LLJ 443 SALEM ERODE ELECTRICITY DISTRIBUTION CO. PVT. LTD. Vs. WORKMEN and 1969 II LLJ 540 AGRA ELECTRICITY SUPPLY CO. LTD. Vs. ALLDIN & OTHERS in which it was held that "*there cannot be different and varying conditions of service and that it would be contrary to the intention of the legislature*". It further held that "*it would also render the conditions of service of workmen as indefinite and diversified as before the enactment of the Industrial Employment Standing Orders Act.*" Thus, the Supreme Court has emphasized that the very purpose of the Industrial Employment Standing Orders Act, 1946 is

to secure uniformity in the service conditions of the workers. But, in this case though the Respondent/Management has got mines at Thalaiyuthu and Sankari, the workers in mines of Sankari alone have been retiring at the age of 58 years, while the workmen in Thalaiyuthu mines are retiring at the age of 60 and the Respondent/Management has not given any valid reason for this anomaly and in such circumstances, the contention of the Petitioner Union has to be accepted and this Tribunal has to hold that the action of the Respondent/Management in retiring the mines workers at Sankari on attaining the age of 58 years is not justified.

13. But, as against this, the learned counsel for the Respondent contended that it is well settled that once the standing orders is certified, the same will continue to govern the workmen and it has also been held that standing orders are binding on the parties. Therefore, if at all the workmen are aggrieved they can invoke Section 10 of the Industrial Employment Standing Orders Act for modification and not in any other manner like in the present dispute. He also relied on the decision reported in 1977 II LLJ 429 wherein the full bench of the High Court of Allahabad have held that "*standing orders are rules relating to matters set out in the schedule in view of the definition of the term 'standing orders' in Section 2(g) of the Standing Orders Act. In the absence of a statutory provision the mere fact that ownership of an industrial establishment has changed hands, the standing orders which were applicable to the industrial establishment of its previous owner would not automatically cease to apply merely because the industrial establishment has been purchased by some one else. They being applicable to the industrial establishment would continue to apply notwithstanding the change of ownership of the industrial establishment*". Therefore, the learned counsel for the Respondent argued that simply because M/s. Star Construction & Transport Company has been taken over by the Respondent/Management, it cannot be said that the standing orders of the M/s. Star Construction & Transport Company cannot be applicable to the Petitioner Union. The industrial establishment remains the same. It is further contended on behalf of the Respondent that the workmen in this case proceeded on the basis as if this is a case relating to fixation of the age of superannuation which is not the issue referred to for adjudication. In this case, the issue is not fixation of age of retirement but justifiability of retirement of employees of the mines at the age of 58 which according to the management is justifiable as per M/s. Star Construction & Transport Company standing orders namely Ex. W5 which alone is applicable to workmen. Therefore, this Tribunal having regard to the issue referred to for adjudication cannot enlarge the scope of the reference but can only decide the issue referred to for adjudication. It is further argued on behalf of the Respondent that even though the Petitioner contended that this dispute after having absorbed the workers of the Petitioner Union, the management cannot follow the standing orders of M/s. Star Construction & Transport

Company and it is not in consonance with the settlement dated 8-6-78, which is marked as Ex. W5, the letter written to the Regional Labour Commissioner (Central), Chennai dated 5-4-85, the petitioner Union has clearly stated in circumstances like this that *"during the hearing of Certification of draft standing orders of India Cements Ltd. for their workmen in their mines, it was contended on behalf of the workers that certified standing orders of M/s. Star Construction & Transport Company which was taken over as a going concern by India Cements Ltd. continues to be operative and binding on the workers and management of India Cements Ltd."* Thus, they have clearly stated before the Regional Labour Commissioner that only the standing orders of M/s. Star Construction & Transport Company alone will be applicable to the workmen who have taken over by the Respondent/Management. Now they wanted to turn around and say that with regard to the age of retirement that clause in the standing orders will be not applicable to them, since it is against their interest. Thus, they have taken two different stands at two different times and they cannot take approbate and reprobate at the same time. It is further argued on behalf of the Respondent that no doubt the standing orders of Thalaiyuthu mines says that retirement age of workers in that mines is 60 years, but the Petitioner Union cannot take advantage of this provision in the standing orders of Thalaiyuthu mines and claim that they are entitled to invoke this provision because the workers of Thalaiyuthu mines are governed by different standing orders which is not applicable to the workers of the Petitioner Union.

14. But, as against this learned counsel for the Petitioner contended that regarding the contention of delay in raising the dispute with regard to the age of retirement will not come in the minute when one joins establishment and will arise only when the employees are about to reach of superannuation. Even otherwise, they can raise dispute that employees should not be retired at the age of 58 years in which case the award will apply to those persons who are still in service and who are yet to retire. Further, one can never make a demand to raise the age of retirement to 60 years immediately when he joins the company, therefore, there is no question of any delay in such kind of dispute which is a continuing one. Even in case, where an employee is dismissed, the Supreme Court has held in 1999 1 LLJ 1260 that *"the delay is not fatal for making a reference under section 10(1) of the I.D. Act"*. It further held that *"the Govt. at any time may refer the dispute."* Therefore, the question of delay being fatal to reference will not arise particularly in the case of age of retirement. Secondly, the learned counsel for the Petitioner contended that even though the settlement dated 14-8-2000 which is entered into at All India level is still subsisting between the parties, the settlement at all India is for the demand of retirement at the age of 65 years and that has nothing to do with the present local demand of the workers at Sankari Mines claiming the age of retirement at the age of 60 years. All India level settlement is industrywise dispute whereas the

present dispute is unit-wise dispute. This dispute relates to workers of India Cements Ltd. at Sankari West alone. Even in 1963 II LLJ 195 INDAN BANK's case, the High Court of Madras has held that All India dispute relating to enunciation of principles of bonus in banks will not dispose of the dispute relating to Indian Bank employees claiming bonus for certain years. Therefore, the demand of All India level was 65 years which is not the same in this case. There is no identity in the subject matter. Even in the settlement of All India level, it says that service conditions not altered by the settlement will continue till it is revised and therefore, the settlement dated 14-8-2000 is not bar. The learned counsel for the Petitioner further contended that the contention of the Respondent that certified standing orders of M/s. Star Construction & Transport Company is binding on the parties which provides 58 years of age for retirement but even though it provides the retirement age as 58 years, it has the proviso that the management can relax in individual cases and retain the worker upto 60 years if he is found medically fit and such a blanket power to give the benefit of retiring a worker in individual cases cannot be left to the management's sole discretion. If a person is found medically fit, the employer should retire its employee at the age of 60 years and therefore, the standing orders of M/s. Star Construction & Transport Company itself is against the Respondent/Management. Further, the Supreme Court in AIR INDIA Vs. NERGESH MEERZA reported in 1981 (4) SCR 375 has clearly stated that *"the unguided discretion of power to extend the age of retirement of airhostess to retire her at the age of 35 instead of continue her till 45 years is bad"*. Applying the ratio of this judgement, in this case, it cannot be said that the discretion is left with the management to send individual cases for medical examination and keep them in service till 60 years, if they are found medically fit. Further, it is contended on behalf of the petitioner that though the Respondent/Management has stated that Burn Standard Co. Ltd. which is a Govt. Company and they have discretion to send workman out at the age of 55 years, if the workman is found medically unfit. That is not the case here. In this case, under settlement Ex. W2, the Respondent/Management has agreed and promised while absorbing these workmen under Clause 1 that they will give continuity of service and the same terms and conditions of India Cements Ltd. and therefore, when the mines at Thalaiyuthu, the age of retirement is 60 years for the workmen, it is highly arbitrary and unjustifiable to retire the workmen at Sankari mines at the age of 58 years. Even in number of cases, the Supreme Court has held that the service conditions should be uniform. Therefore, the Respondent/Management namely India Cements Ltd. cannot have 60 years as retirement age in mines at Thalaiyuthu and 58 years at Sankari mines. It is further argued that though the Respondent tries to justify that the work in mines at Thalaiyuthu is strenuous, they have not established before this Tribunal and the witness examined on behalf of the Respondent has clearly stated the Respondent/Management has not done any scientific

study about the strenuous nature of work and therefore, the Respondent/Management has not justified their action for retiring the workers of Sankari mines at the age of 58 years. It is the further contention of the learned counsel for the Petitioner that in number of cases the Supreme Court has taken note of the fact that the trend is to fix 60 years as age of retirement and therefore, this Tribunal has to hold that the action taken by the Respondent/Management is unjustifiable.

15. But, I find the argument put forth by the learned counsel for the Respondent/Management holds good because the Petitioner Union took the stand under Ex. M5 that the standing orders of M/s. Star Construction & Transport Company alone is applicable to them and they have clearly stated that they are governed only by the standing orders of M/s. Star Construction & Transport Company and they were absorbed in India Cements Ltd. by the settlement dated 8-6-78 with the applicability of standing orders. Therefore, it is clear that all the workmen and management have accepted, agreed to and acquired to the fact that the standing orders of M/s. Star Construction & Transport Company alone will govern the workers of the Petitioner Union and it is also clear that the Petitioner Union workmen and the management have been acting upon the above standing orders. It is also well settled that once the standing orders is certified, the same will continue to govern the workmen and the standing orders alone is binding on the parties and if at all the workmen are aggrieved with regard to clause of standing Orders, they have to invoke Section 10 of Industrial Employment (Standing Order) Act for modification and not in any other manner as in the present case.

16. Then the learned counsel for the Petitioner contended that in any event the proviso under section 17 (c) of Standing Orders of M/s. Star Construction & Transport Company states that it is open to the management to retire the workers of mines at the age of 60 years provided they are medically fit. But, this discretion should not be left with the management. In fact, the standing orders for quarry at Thalaiyuthu namely Ex. W 16 provides under clause 18(c) to extend the retirement age even beyond 60 years and if that is so, there is no reason why the workmen at Shankari mines should not be continued even at least till the age of 60 years and he further contended that alternatively, without prejudice to their demand that all the mine workers on reaching the age of 58 years should be sent for medical examination to the District Medical Officer and if they are found medically fit, they should be continued till 60 years otherwise, on reaching the age of 58 years, some are chosen to be sent to medical board, which leads to discrimination. Such an arbitrary power is deprecated by the highest forum namely the Supreme Court. Therefore, this Tribunal has to pass an award alternatively that the mines workers at Sankari before reaching the age of 58 years should be sent for medical examination to the District Medical Officer and in case, they are medically found fit, they should be continued till 60 years.

17. But, here again, I am not inclined to accept the contention of the learned counsel for the Petitioner because, this is not a case for fixing the age of superannuation of the mines workers at Sankari. In this case, the issue is not the fixation of age of retirement but justifiability of retirement of workmen of mines at the age of 58 years. In this case, the Respondent/Management has clearly established that they have been retiring the employees of Sankari mines by adopting the standing orders of M/s. Star Construction & Transport Company and therefore, I am not accepting the contention of the learned counsel for the Petitioner even with regard to alternative prayer. Therefore, in view of my above finding that the workmen of the Petitioner Union and the Respondent/Management have accepted, agreed and acquired to the fact that standing orders of M/s. Star Construction & Transport Company alone will govern them, I find the Respondent/Management has justified in their action in retiring the mines workmen at Sankari on their attaining the age of 58 years.

Point No. 2 :

18. In view of my finding that the action of the Respondent/Management in retiring mine workers at Sankari on their attaining the age of 58 years is justified, I find the concerned workmen are not entitled to the relief as claimed by the Petitioner Union. No Costs.

(Dedicated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th May, 2005.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party/Claimant : WW1 Sri P.R. Narayanan
WW2 Sri S.K. Palaniappan

For the II Party/Management : MW1 Sri V. Paramasivam

Documents Marked:—

For the I Party/Pettitioner :

Ex. No.	Date	Description
W1	31-03-78	Xerox copy of the notice issued by management.
W2	08-06-78	Xerox copy of the memorandum of settlement.
W3	16-05-85	Xerox copy of the order of Regional Labour Commissioner (Central) Chennai.
W4	06-05-95	Xerox copy of the representation given by Petitioner Union to Respondent/Management.
W5	Nil	Xerox copy of the standing orders for limestone quarry Owned by M/s. Star Construction & Transport Company.

Ex. No.	Date	Description	Ex. No.	Date	Description
W6	25-05-95	Xerox copy of the letter from Petitioner Union to Assistant Labour Commissioner (Central).	M4	10-12-99	Xerox copy of the charter of demands made by Indian National Cement Workers Federation.
W7	20-11-95	Xerox copy of the letter from Petitioner Union to Chief Labour Commissioner, New Delhi.	M5	05-04-85	Xerox copy of the letter from Petitioner Union to Regional Labour Commissioner (Central).
W8	13-01-96	Xerox copy of the letter from Petitioner Union to Regional Labour Commissioner (Central) Chennai.	M6	14-06-95	Xerox copy of the charter of demands of INCWF.
W9	19-03-96	Xerox copy of the letter from Respondent/Management to Assistant Labour Commissioner (Central).	M7	12-07-96	Xerox copy of the settlement between Cement Manufacturers Association & Cement Workmen.
W10	21-06-96	Xerox copy of the circular issued by Indian National Cement Workers' Federation.	M8	24-07-02	Xerox copy of the letter from Petitioner Union to Director of Mines Safety.
W11	27-01-96	Xerox copy of the charter of demands.	M9	26-07-02	Xerox copy of the reply given by Director of Mines Safety to Petitioner Union.
W12	12-07-96	Xerox copy of the minutes of conciliation proceedings.	M10	11-06-66	Xerox copy of the office order of Respondent/Management.
W13	29-01-98	Xerox copy of the failure of conciliation report.	M11	18-10-66	Xerox copy of the office order issued by Respondent.
W14	14-08-00	Xerox copy of the minutes of conciliation proceedings.	M12	31-07-78	Xerox copy of the notice given by Respondent/Management.
W15	Nil	Xerox copy of the standing orders of factory at Sankari.	M13	07-10-96	Xerox copy of the office order issued to Mr. Marimuthu.
W16	Nil	Xerox copy of the standing orders of India Cements Quarries.	M14	03-04-98	Xerox copy of the office order issued to Mr. Thowhiappan.
W17	Nil	Xerox copy of the Tamil version of Ex. W16.	M15	20-11-87	Xerox copy of the office order issued to Mr. Paramasiyam.
W18	Nil	Xerox copy of the certified standing orders of Associated Cement Companies Ltd.	M16	31-07-92	Xerox copy of the memorandum of settlement u/s. 12(3 and 18(3) of I.D. Act.
W19	28-12-92	Xerox copy of the letter from Respondent/Management to Mr. Sankaralingam, driller.			

For the II Party/Management :—

Ex. No.	Date	Description
M1	23-01-92	Xerox copy of the representation given by Petitioner Union to Respondent/Management.
M2	25-05-95	Xerox copy of the letter from Petitioner Union to Assistant Labour Commissioner (Central).
M3	29-06-98	Xerox copy of the letter from Ministry declining to refer the matter of adjudication.

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उड़ीसा मैगनीज एण्ड मिनरल्स प्रा. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 404/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-27011/4/2001-आई आर(विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. 404/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar, as shown in the Annexure in the Industrial Dispute between the management of Orissa Manganese & Minerals (P) Ltd. At/PO : and their workmen, received by the Central Government on 18-10-2005.

[No. L-27011/4/2001-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Shri N.K.R. Mohapatra, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

Industrial Dispute case No. 404/2001

Date of Passing Award 21st September, 2005

BETWEEN :

The Management of the General Manager,
Orissa Manganese & Minerals (P) Ltd.,
At/Po. Koira,

Dist. Sundargarh. ... 1st Party Management

AND

Their Workmen, represented through the
Secretary, Orissa Minerals Workers Union,
At/Po. Barsua, Dist. Sundargarh.

... 2nd Party Union

APPEARANCES :

None. For the 1st Party-
Management

Shri R.P. Singh, General For the 2nd Party-
Secretary, O.M.W. Union Union

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication *vide* their Order No. L-27011/4/2001-IR (M), dated 18-06-2001.

"Whether the action of the Management of Orissa Manganese & Minerals (P) Ltd., Koira by not paying subsistence allowance as per the provision of Section 10-A of the Model Standing Order of Industrial Employment (Standing order) Act, 1946 to S/Shri Lal Mohan Patra, Kasmu Munda, Subash Patra, Raising Munda, Raimani Munda, Sapani Munda, Sujani Munda, and Gopal Munda is justified? If not, to what relief the workmen are entitled?"

2. The admitted facts of the case as presented by both parties are that from 12-11-1999 the disputant workman and many others joined in a strike by seizing their works and therefore the Management placed them under suspension pending enquiry after declaring the strike

illegal. Few days later the Management revoked its order of suspension but did not give any subsistence allowance to the disputants and other who were placed under suspension. Its is alleged by the espousing Union that, the said strike having not been declared illegal by the competent authority mere declaration of such strike as illegal by the Management is of no consequence and therefore the disputants are entitled to get subsistence as prescribed under the model standing order.

3. On the other hand, it is claimed by the Management that as the strike was staged without any notice it was open to him to declare the strike illegal and therefore the workmen are not entitled for any subsistence allowance in the absence of a provision in its certified standing order. As regards the applicability of model standing order it is further contended that the same is not applicable to the workman as the Management has got its own certified standing order. In addition to the above, it is further pleaded by the Management that during the strike period the workman and others having realized their mistake apologized and wanted to join in their duties. The Management on a sympathetic consideration of their above request revoked its order of suspension by keeping the proceedings pending and allowed the workers to join in their duties on their agreeing to the condition that they would bring normalcy and will not claim any wages for the period of their absence and as such they are also not otherwise entitled for any subsistence allowances.

4. Be it noted here that when the matter was taken up for hearing both parties did not like to adduce any oral evidence. They simply wanted the Tribunal to dispose of the matter on the basis of their pleadings alone.

5. In view of the above, the main question now boils down for determination is as to whether in the above given circumstances the workmen are entitled to get subsistence allowance or not and if entitled how?

6. It is the settled law that where a strike has been declared illegal the participating workers would not be entitled to get wages for the strike period. In the instant case the only evidence available is that the strike was declared illegal by the Management who under the law is not competent to do so. There being no further evidence from the side of the Management as to such strike being declared illegal by the competent authority the workmen are entitled for all service benefit for the alleged strike period subject to other restrictions prescribed under their standing order/service regulations.

7. It was contended by the Management that it has got its own standing order for the workers and under the same a workman is not entitled to get subsistence allowance during period of suspension. Besides when the workers had resumed their duties after the strike on condition that they would not claim any wages for the strike period that itself disentitles them to claim subsistence allowance for the period of suspension following the strike. But to substantiate the same no document worth the name has been filed by the Management. Besides when asked during

argument to provide their certified standing order, the Management failed to do so with an explanation that the same is not readily available its establishment being in a defunct state. Therefore, with all probability it is to be presumed that the certified standing order do contain a provision for payment of subsistence allowance to a worker under suspension. Besides when both the parties agreed that the model standing order do contain such a provision, the certified standing order of the Management could not have been otherwise. Therefore, in view of the above, it is held that the workmen are entitled to get subsistence allowance for the period during which they were placed under suspension.

8. Reference is answered accordingly.

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 18 अक्टूबर, 2005

का.आ. 4250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर मिनेरल्स लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 83/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-2005 को प्राप्त हुआ था।

[सं. एल-29012/27/1999-आई आर(विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 18th October, 2005

S.O. 4250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 83/99) of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of *Mysore Minerals Limited*, and their workmen, received by the Central Government on 18-10-2005.

[No. L-29012/27/1999-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 23rd September, 2005

PRESENT:

SHRI A. R. SIDDIQUI, Presiding Officer

C.R.No. 83/99

I PARTY

Shri Govindgowda,
S/o H. Ramaiah,
Nuggenahalli Post,
Channarayapatna Taluk,
Hassan-573 131

II PARTY.

The Chairman and Managing
Director,
Mysore Minerals Limited,
No. 39, M.G.Road,
Bangalore-560 001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order. No.L-29012/27/99/IR(M) dated 7th July 1999 for adjudication on the following schedule:

SCHEDULE

“Whether the termination of service of Shri Govinda Gowda by the management of Mysore Minerals Ltd. is justified? If not, to what relief the workman is entitled?”

2. The case of the first party as made out in his Claim Statement, briefly, stated is that he joined the services of the management w.e.f. 2-7-81 as a Mate Assistant. He was promoted as Second Division Assistant *vide* order dated 12-10-96 due to his hard working and sincerity and his clean and excellent service records. He worked continuously upto 28-2-1997; that from 1.3.97 he fell sick on account of viral fever to take treatment at BAM hospital, Gundlupet and was under the treatment from 1-3-97, onwards. He submitted leave letters and also medical certificates issued by the concerned medical attendants duly served upon the management, however, the management issued letter to him to appear before the enquiry committee. He could not appear before the enquiry committee once again for the reason that he was not keeping well. This fact he brought to the notice of the management also. However, enquiry was conducted in his absence behind his back holding him guilty of the charges of unauthorized absence and on the basis of the enquiry findings, dismissal order dated 26.2.1998 was passed against him; that he is not commit any misconduct of unauthorised absence as he applied for leave with medical certificates showing the reason of his ill health; that when the first party reported for duty after recovery of his health, the management did not allow him to report for duty; that the management ought to have conducted a detailed enquiry against the first party giving him all the opportunities to defend his case and on the other hand, enquiry was held behind his back against the principles of natural justice and illegal dismissal order was passed. Therefore, the whole enquiry proceeding was against the principles of natural justice and bad in law liable to set aside. He prayed this tribunal to pass an order setting aside the dismissal order and to reinstate him in service with all consequential benefits.

3. The management by its Counter Statement while admitting the fact that first party was in its service from 1981 to 1998, however, contended that during the above period he worked for 3741 days out of 5954 working days and therefore, for remaining working days of 1733, he remained absent unauthorisedly, thereby, making it clear that he is not interested in the employment of the management; that the first party was issued with several memos directing him to report for work along with his explanation for having remained absent unauthorisedly from 1-3-1997 onwards. In spite of repeated memos duly served upon him, the first party neither reported for duty nor sent any communication in respect of his unauthorised

absence. Therefore, the management thought it proper to conduct the Domestic Enquiry against the first party and issued notice of enquiry fixing the date of hearing on 22-9-1997. The first party did not appear nor made any representation expressing his inability to attend the enquiry on that day. Enquiry Officer, left with no alternative, proceeded with the enquiry placing the first party *ex parte* and then submitted his findings holding him guilty of the charge of long unauthorized absence from duty w.e.f 1-3-97; that on humanitarian grounds once again the management offered employment to the first party by issuing a notice by way of paper publication on 27-9-1997 calling upon the first party to report to work within 7 days from the date of publication of the said notice failing which suitable disciplinary action will be taken against him. The first party however, failed to respond to this said notice also. He was served with a final show cause notice calling upon his explanation as to why he should not be removed from service. There was no response for the said notice also from the first party. Therefore, by impugned punishment order dated 26-2-1998 the management dismissed the first party from its services. The management further contended that fair and reasonable opportunity was given to the first party while conducting the Domestic Enquiry and it is on account of his absence despite the notice of enquiry, proceeding of enquiry were conducted *ex parte* and therefore, it cannot be said that they suffered from principles of natural justice.

4. On the basis of the aforesaid contention of the respective parties with regard to fairness and validity or otherwise of the enquiry proceedings, this tribunal on 2-4-04 framed the Preliminary Issue "Whether the Domestic Enquiry conducted against the first party is fair and proper"

5. During the course of trial on the said issue, the management examined the enquiry officer as MW1 and got marked 4 documents at Ex.M1 to M4. On 28-7-04 when the case was posted for evidence of the first party, he failed to turn up and therefore, case was taken closed for evidence of the first party. On 13-10-2004 when the matter was posted for arguments on the said Domestic Issue, the Learned counsel for the first party filed memo of no instructions seeking permission of the court to retire from the case along with the letter of copy addressed to the first party returned 'unserved'

6. After hearing the learned counsel for the management, this tribunal by its order dated 31-12-04 recorded a finding on the above said issue to the effect that the enquiry conducted against the first party by the Second Party is 'not fair and proper'. Thereupon the matter came to be posed for evidence of the management on merits. On 23-2-2005 the management examined in chief MW2 and got marked 11 documents at Ex.M1 to M11. Cross examination was deferred and the matter was taken up on 18-4-05. On the said date this court thought it proper to issue fresh notice to the first party in the interest of justice and accordingly notice was issued by RPAD but unfortunately returned 'Unserved'. Therefore, on 29-6-05

the management witness, MW2 being present was discharged and case was taken closed for evidence. On 25-8-2005 I heard the learned counsel for the management and posted the case this day for award.

7. On merits of the case, management examined MW2 working as its Office Superintendent for the last 10 years and knowing the facts of this case on the basis of the records. His statement in examination chief relevant for the purpose is that the first party joined the services of the second party in 1981 and he was habitual and chronic absentee regularly absenting him from duty days together for several years. He was served with number of memos for his unauthorised absence but did not mend himself. He stated that the latest unauthorised absence of the first party was from 1-3-1997 to 8-6-1997 and accordingly he was issued chargesheet as per Ex. M4 series. He did not turn up to the enquiry despite several notices and also did not report for duty despite the paper publication of notice at Ex.M5. He was served with final show cause notice as per Ex.M6 but there was no response from him therefore, the management issued order terminating his services as per Ex. M7. Then he spoke to the fact that on the basis of the attendance registers produced before this tribunal prior to the period from 1989 to 1998, statement has been prepared showing the number of the days the first party actually worked and number of the days he remained absent from duty. Those registers marked at Ex. M8. series and the statement based on those registers is marked at Ex. M9. In the last para, he stated that they have issued in all 40 memos with regard to the unauthorised absence of the first party which are at Ex. M10. series and consolidated statement of those memos at Ex. M11.

8. As noted above, the above said statement of MW1 and the documents marked during his deposition have remained unchallenged and uncontroverted there being no cross examination by the first party who remained absent before this tribunal all alone and his counsel retired from the case for want of instructions. From the perusal of the above said statement of MW1 and the documents referred to by him it can be very well gathered that the first party has been in the habit of remaining absent from duty on number of occasions resulting into the aforesaid 40 memos marked at Ex. M10 series. His latest unauthorised absence as per the chargesheet was from 1-3-97 to 8-6-1997. It is further seen from the above said statement that the first party did not respond to the enquiry notice and failed to report for duty despite the notice published in the newspaper calling upon him to resume for duty. It is also seen that a final show cause notice was issued to him as per Ex. M6 directing him to submit his explanation as to why services should not be terminated in the light of the enquiry findings holding him guilty of the charges. He remained absent and indifferent to the various notices much less to the notice issued in the newspaper asking him to resume for duty, and give an explanation about his absence from duty. He did not respond to the enquiry notice on the ground of his ill health resulting into the *ex parte* enquiry proceedings and then findings of the enquiry officer holding him guilty of the charges. Therefore,

from the above oral testimony of MW2 not challenged by the first party and the documents produced by the management there is sufficient force in the arguments advanced by the management that the first party is a habitual and chronic absentee. A perusal of the statement at Ex. M9 prepared on the basis of attendance registers marked at Ex. M8 series for the period from 1989 to 1998 it can be seen that the first party worked only for a period of 3741 days out of 5954 working days. He remained absent unauthorisedly for a period of 1733 days which means to say that he remained absent from duty for almost 2/3rd period of working days in his service. This conduct of the first party would reveal that he is least interested in the employment of the management. The various contentions taken by him in his claim statement about his ill health, and remaining absent from duty, he sent leave applications as well as medical certificate to the management for his absence from duty, have remained unsubstantiated there being no oral or documentary evidence produced by the first party before this tribunal. In the result I must hold that charge of misconduct levelled against the first party stands proved and keeping in view the misconduct committed by him, it appears to me that ends of justice will be met by terminating his service w.e.f. 26-2-1998. He shall be entitled to terminal benefits as per service rules and certified standing orders of the management company. Hence the following award is passed.

AWARD

The service of the first party stand terminated. He shall be entitled to terminal benefits and other service benefits as per the Service Rules and Certified Standing Orders of the Management w.e.f. 26-2-98. No order to cost.

(Dictated to PA transcribed by her corrected and signed by me on 23rd September, 2005.)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 19 अक्टूबर, 2005

का.आ. 4251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट (संदर्भ संख्या (सी.)/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/190/2003-आई आर(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th October, 2005

S.O. 4251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1. (C)/2004) of the Industrial Tribunal, Patna (Bihar) as shown in the Annexure in the Industrial Dispute between the management of Bank of India and their workman, which was received by the Central Government on 14-10-2005.

[No. L-12012/190/2003-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No.1(c) of 2004

The Zonal Manager, Bank of India, R. Block, Patna and their workman Shri Binay Kumar, M. Bhawan, Sudha Kunj, Moh-Jai Prakash Nagar, Gewal Bigha, P.O.H.P.O., Gaya.

For the Management : Sri Mukesh Kumar, Officer of the Bank.

For the Workman : Sri B. Prasad, General Secretary, Bank Employees Federation, Bihar.

PRESENT : Om Prakash Sinha, Presiding Officer, Industrial Tribunal, Patna.

AWARD

Patna, dated the 30th September, 2005.

By the adjudication order No. L-12012/190/2003-IR(B-II) dated 19-01-2004, the Government of India, Ministry of Labour, New Delhi has referred, under Clause(d) of sub-section (1) and sub-section(2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter to be referred to as 'the Act'), the following dispute between the management of Bank of India, R. Block, Patna and their workman Shri Binay Kumar for adjudication to this Tribunal:-

"Whether the order of punishment to remove Shri Binay Kumar, Cash-cum-Accounts-Clerk, from service while working in Gaya Branch of the Bank of India is legal and justified? If not, what relief the workman is entitled to?"

2. Both the parties have filed their respective written statements and contested the reference. They have also adduced evidence both oral and documentary. The workman has examined three witnesses and the management has examined only two witnesses. The workman has proved documents which have been marked Exts. W to W/5. The management have filed documents, which have been marked Ext.M and M/1.

3. The case of the workman, as it appears from the written statement filed on his behalf, briefly stated is that the workman Sri Binay Kumar was appointed as a Cash-cum-Accounts Clerk at Bhaga Branch, Dist. Dhanbad on 1-3-1985 after being selected on the basis of a test conducted by Banking Service Recruitment Board and was appointed by the Zonal Manager, Bank of India. He was transferred to A.N. Puri Branch, Gaya and joined there in September, 2001. It is stated that after joining at Gaya he began taking active part in organising the workmen under the guidance of Gaya District Bank Employees' Union due to which the workman of other trade union became inimical to him. He also became an eye-sore for the management. That as a result of which the management under conspiracy with other set of workmen placed this workman under suspension vide order dated 6-2-2002 levelling certain false allegations against him. The order of suspension came as a bolt from the blue and he was very much disturbed even to the extent of losing his senses having no other means of livelihood.

4. It is further stated that while the workman was suffering from mental agony the Bank Manager directed him to give in writing a statement as per his dictate and also directed to accept the allegation as contained in the suspension order, failing which his suspension would not be vacated. That on the assurance of vacating his suspension he wrote the letter on 7-2-2002 as per direction of one Officer, namely Sri V. N. Kumar before the Branch Manager. In this way under the workman wrote both the letters dated 6-2-2002 and 7-2-2002.

5. On 21-3-2002 the workman received a memorandum dated 18-3-2002 alongwith a chargesheet, which also dated 18-3-2002 with a direction from the Disciplinary Authority to appear before the Enquiry Officer on 26-3-2002 for Domestic Enquiry. Sri P. K. Tripathi was appointed as Enquiry Officer and Shri V. G. Kamble as Presenting Officer. The workman was not afforded an opportunity to reply the charges before appointing the Enquiry Officer. That after appointment the Enquiry Officer did not intimate the workman for holding Domestic Enquiry proceedings.

6. The workman has assailed the Domestic Enquiry on the following ground amongst the others :—

- (i) The Enquiry Officer never issued any notice to the workman intimating him the date for holding domestic enquiry and did not allow him to engage a defence Representative (D.R.)
- (ii) The Enquiry Officer did not give a copy of proceeding to the workman, which is mandatory as per the provisions of Bipartite Settlement.
- (iii) That the Enquiry Officer acted in haste and concluded the Domestic Enquiry within four hours.
- (iv) The Enquiry Officer did not conduct the enquiry independently as would appear from the fact that the date of enquiry was fixed by Disciplinary Authority and not by the Enquiry Officer himself.
- (v) The Enquiry Officer did not consider the material fact that the workman had not been afforded an opportunity to submit his reply to allegations levelled against him and in this way violated the Principles of Natural Justice. That the entire Domestic Enquiry suffers from unfairness and impropriety.

7. The workman was never allowed to know, whether the Chief Manager, Zonal Office, Patna was appointed as the Disciplinary Authority or not. He was also never made aware whether the Manager of Gaya Branch was the Disciplinary Authority or not as he has been suspended by him.

8. The Chief Manager-cum-Disciplinary Authority was so active that *suo-motto*, without giving information to the workman fixed the date of hearing at A. N. Puri, Gaya Branch, where the workman was under constant threat due to Trade Union activities. It is further stated that the Show Cause punishment notice No. 2 dated 23-4-2002 was the first Show Cause Notice as no other show cause memo

was ever issued to the workman prior to this. To this show cause the workman was instructed to submit his reply within seven days of receipt of the show cause notice. The workman received this letter on 2-5-2002 and appeared before the Disciplinary Authority on 3-5-2002 at about 11.30 A.M. The workman was never supplied a copy of the findings of the Enquiry Officer before the Disciplinary Authority decided for awarding the punishment to the workman.

9. It is stated that the punishment notice is without proper application of mind and as such is neither legal nor justified. The haste, on the part of the management would show from the fact that not a single witness was examined to support the allegations nor the Defence Representative of the workman was allowed to be present in the course of enquiry. In this way entire Domestic Enquiry Proceeding stand vitiated and suffers from malafide and bias.

10. The workman preferred an Appeal before the Appellate Authority on 21-6-2002 against the order of Disciplinary Authority, but his prayer was not considered and the punishment awarded to him was confirmed vide order dated 3-8-2002. That the workman also preferred Mercy Appeal before the Highest Authority of the Bank but this too was not considered.

11. That a Conciliation Proceeding also took place before the Assistant Labour Commissioner (Central), Ministry of Labour, Govt. of India, Patna, but that also ended in fiasco due to un-compromising attitude of the management.

12. The workman is facing starvation as he has no other means of livelihood.

13. On the basis of aforesaid pleadings the workman has prayed for his reinstatement with back wages and other consequential benefits.

14. The management has filed its written statement by which a preliminary objection has been raised that Sri Binay Kumar Cash-cum-Accounts Clerk was never posted at Gaya Branch of the Bank as referred in the Schedule of reference. In fact he was posted at Bank's A.N. Puri Branch. That the Schedule of order of reference does not specify any reference number or date etc. of the order of punishment in respect of Binay Kumar workman and, therefore, the order of reference is vague. It may be stated here that the Govt. of India, Ministry of Labour and Employment vide their letter No. L-12012/190/2003-IR(B-II) dated 2nd December, 2004 have issued a corrigendum through which Schedule has been amended as follows :—

“Whether the order of punishment to remove Shri Binay Kumar, Cash-cum-Accounts-Clerk, from service while working in A.N. Puri Branch, Gaya of Bank of India is legal and justified? If not, what relief the workman is entitled to?”

From the above corrigendum it is clear that the preliminary objection raised by the Bank has been removed by the Govt. of India, Ministry of Labour and Employment and this is no more a valid objection.

15. It is the case of the Bank (Management) that the allegation against the workman is regarding fraud and any

workman involved in fraud of Bank money can not be retained by the Bank in its service.

16. It is the case of the management that the order of the punishment dated 15-5-2002 passed by the Disciplinary Authority is absolutely legal and justified. That the allegation that the management was hand in glove with some other group of workman and hatched a conspiracy against the concerned workman is an after thought and has been made for the purpose of this case. That the management had no information about the workman's involvement in any Trade Union activities at Gaya. That he was an ordinary member of Bank of India Employee's Union which is affiliated to A.I.B.E.A. That on detection of the computer fraud committed by the workman the competent authority felt it expedient to suspend him from the services of the Bank in the public interest and accordingly he was suspended vide order dated 6-2-2002 passed by the Manager, and served on the worker Sri Binay Kumar on the same day. That the workman was never pressurised by any official of the Bank to admit his guilt on 6-2-2002 or 7-2-2002. On the contrary the worker Sri Binay Kumar had himself admitted his guilt before the Manager on 6-2-2002 i.e. on day of suspension itself that he had manipulated the figures in the computer and thus committed the fraud. That during the course of investigation on 7-2-2002 itself Binay Kumar had given a statement before Investigating Officer that he had manipulated the computer entry by mis-utilising the password of another staff namely Jafar Islam. That this statement was given by the workman voluntarily and plea taken by him now that he had given the statement under threat is not tenable and is an after thought. That he never made any such complaint to the higher authority at any point of time after admission of his guilt.

17. That the Disciplinary Authority has followed due procedure and has issued the chargesheet alongwith covering Memorandum dated 18-3-2002 to the workman. The workman was directed to appear before the Enquiry Officer on 26-3-2002 at 11 A.M. and submit in writing his explanation in respect of the charge mentioned in the charge sheet. That the workman acknowledged the Memorandum dated 18-3-2002 as well as the charge sheet on 21-3-2002. In this view of the matter, the allegation of the workman that the Enquiry Officer did not intimate him the fact of holding the Domestic Enquiry is false.

18. That the enquiry was held in a free and fair manner and Principles of Natural Justice has been followed meticulously by the Enquiry Officer. That vide his memorandum-cum-chargesheet dated 18-3-2002 the Disciplinary Authority permitted the workman to bring his Defence Representative (D.R.) as permissible under Bi-Partite Settlements in this regard. The workman, however, did not bring any Defence Representative in the Enquiry and the same has been recorded in the order sheet duly signed by the workman himself. That it is wrong to say that the workman was not supplied with a copy of the Enquiry Proceeding. In fact the workman was supplied the copy of order sheet and all the evidence sheets on the day of enquiry itself i.e. on 26-3-2002. The workman has acknowledged receipt of the same in writing. It is further

stated that the Enquiry Officer did not act in haste. On the contrary the workman Binay Kumar came prepared to admit the charge and at the beginning of Enquiry itself admitted his guilt in writing.

19. The management has denied the allegation that the Enquiry Officer did not act independently. That the date of Enquiry was fixed by the Disciplinary Authority himself in order to avoid further delay. The Disciplinary Authority is empowered to order for making enquiry and also to fix the date if he deems fit for avoiding delay. No prejudice what-so-ever has been caused to the worker on this score. The Enquiry Officer has submitted his enquiry finding dated 6-4-2002 after proper analysis of the evidence recorded in the enquiry and after due application of his mind. The finding of the Enquiry Officer, therefore, is not perverse and arbitrary.

20. It is the further case of the management that the Chief Manager, Patna Zonal Office was the competent Disciplinary Authority and his nomination as such was circulated and made known to all through Notice Board. That the Manager of the Branch is empowered to place any Award Staff member working in the Branch under suspension. The submission made by the workman on this point is contrary to the facts.

21. That it is wrong to say, as stated by the worker, that the Chief Manager-cum-Disciplinary Authority had taken extra active role in the matter of issuing show cause notice and offering the opportunity of personal hearing to the workman. The Chief Manager-cum-Disciplinary Authority after receipt of enquiry finding, called for the submission of the workman vide show cause notice dated 23-4-2002 in respect of the finding of the Enquiry Officer as well as in respect of his proposed punishment. That in course of personal hearing also the workman did not raise any objection regarding shifting of venue from Patna to Gaya. That the decision of the Disciplinary Authority to fix the venue of personal hearing at Gaya has not prejudiced the interest of the workman in any way. The show cause notice dated 23-4-2002 was served on the workman on 2-5-2002 vide which the workman was advised to submit his reply within seven days of the receipt of the show cause. The workman, however, did not submit anything. He appeared for personal hearing on 3-5-2002 before the Disciplinary Authority. In course of his personal hearing also on 3-5-2002, the workman admitted his guilt and prayed for mercy. The allegation made by the workman that a copy of enquiry finding was not applied to him is wrong. In fact, the copy of the enquiry finding was supplied to the workman vide show cause notice dated 23-4-2002 received by him on 2-5-2002.

22. The act of misconduct committed by the workman reflects upon the lack of integrity of the workman. He has involved himself in committing fraud on the Bank by manipulating data in the computer and unauthorisedly using the pass word of his fellow colleague. Therefore, the act of workman is prejudicial to the interest of the Bank and is an act gross-misconduct under the provisions of Bi-Partite Settlement.

23. That in view of the fact that punishment has been imposed upon the workman of removing him from the services of the Bank, the workman is no more staff member of the Bank. Hence, the Bank is bound to charge interest on the Housing Loan Account of the workman as applicable to the General Public since the date of his removal from service. Therefore, the demand of the workman to charge interest applicable to the staff member from him is not tenable and justified.

24. Before taking of discussion of the merit of the case, at the very outset we may state that the truth and correctness of the charges is not a matter for the Tribunal to go into. In this regard I may refer to a ruling reported in (1995)-I Supreme Court cases 332 (Transport Commissioner, Madras-5 Vs. A. Radha Krishna Moorthy). It has been held in this ruling, "SO FAR AS THE TRUTH AND CORRECTNESS OF THE CHARGES IS CONCERNED? IT WAS NOT A MATTER FOR THE TRIBUNAL TO GO INTO—More particularly at a stage prior to the conclusion of the disciplinary enquiry. As pointed out by this Court repeatedly, even when the matter comes to the Tribunal after the imposition of punishment. It has no jurisdiction to go into truth of the allegation/charges except in a case where they are based on no evidence, i.e. where they are perverse. The jurisdiction of the Tribunal is akin to that of the High Court under Article 226 of the Constitution. It is power of judicial review. It only examines the procedural correctness of the decision-making process. For this reason the order of the Tribunal in-so-far as it goes into or discusses the truth and correctness of the charges, is unsustainable in law," (Para-7).

25. For the purpose of better appreciation we would like to re-produce the grievances of the workman against the Domestic Enquiry. The grievances are as follows :—

- (i) The Enquiry Officer did not issue any notice to the workman intimating him the date for holding Domestic Enquiry.
- (ii) The Enquiry Officer did not give proper opportunity to the workman for engaging a Defence Representative as per the provisions of Bi-Partite Settlement.
- (iii) The Enquiry Officer did not supply a copy of the proceeding to the workman, which is mandatory as per the provisions of Bi-Partite Settlement.
- (iv) The Enquiry Officer acted in haste and concluded the domestic Enquiry within four hours time.
- (v) The Enquiry Officer did not conduct the enquiry independently as the date of enquiry was fixed by the Disciplinary Authority and not by the Enquiry Officer himself.
- (vi) The Enquiry Officer failed to discharge his duties as a quasi Judicial Authority and acted as an Administrative Officer.
- (vii) The Enquiry Officer failed to consider that the workman had not been afforded an opportunity to submit his reply to the allegations levelled against him and accordingly violated the Principles of Natural Justice.

(viii) That from all these it would appear that the entire Domestic Proceedings suffer from unfairness and impropriety.

26. It would be quite proper to mention here that the present reference has been made to adjudge whether the Domestic Enquiry against the workman Binay Kumar is free from bias and as per Principles of Natural Justice, legal and justified.

27. The main charges against the workman are that on 9-1-2002 he unauthorisedly altered the amount of Rs.276/- in P/L Debit Entry pertaining to payment in DBD Account No. 3899 to Rs.5276/- and further credited the difference amount Rs.5000/- to his O/D. Account. That this transaction was done by him using the pass word of Sri Zafar Islam C.T.O. when Sri Islam had logged in on two computers simultaneously and was working on one of the computers leaving the first computer logged in, he used the computer which is already logged in by Sri Zafar Islam, unauthorisedly to make alteration in the P/L Debit and credit his O/D Account. The credit voucher pertaining to his O/D. Account was removed/destroyed by him. On 11-11-2002 he altered P/L Debit Entry of Rs.1500/- pertaining to interest credited in the D.B.D A/C.No. 1081 to Rs.11500/- and credited difference amount of Rs.10,000/- to his own S/B. A/C. No. 5500. The amount so fraudulently credited to his own S/B Account was withdrawn by him on 23-1-2002. He also altered the figure in the transfer book dated 9-1-2002 manually and made the necessary alteration in the page total also.

28. It is the case of the management that after conclusion of the enquiry a show cause punishment Notice was issued to the workman. Now we propose to examine how fair, free and unbiased this enquiry was. The workman has levelled allegations that the enquiry was far from being fair, free and unbiased. First of all we refer to the management evidence both oral and Documentary.

29. Prashant Kumar Tripathy is M. W. 1. He is the Enquiry Officer. He has stated that he was appointed Enquiry Officer by the Department (The Bank). That he had made enquiries regarding the charge sheet dated 13-3-2002 against the workman. That he had recorded the statement of the charge sheeted Employee (C.S.E.) that he had issued Notices to both sides fixing a date for enquiry. That on 26-3-2002 the C.S.E. submitted his explanation before him in which he admitted his guilt. He also examined witnesses of the Bank who were refused to be cross-examined by the C.S.E. whereafter he closed the enquiry and submitted his report on 6-4-2002 to his Disciplinary Authority. His enquiry report is marked Ext. M. In course of his cross-examination he has stated the his Disciplinary Authority was properly authorised to appoint him as Enquiry Officer. However, he could not say who was his appointing authority. In course of his evidence a paper was produced on behalf of the workman going through which he said that this was offer of appointment and signed by the Zonal Manager. This was Marked Ext W. on behalf of the workman. That an explanation was called for from

the C.S. E, after handing over the charge sheet to him. That alongwith charge sheet. The workman was asked to appear alongwith his Defence Representative before the Enquiry officer. This was already done by the Disciplinary Authority in the charge sheet and hence he did not direct the workmen to come in the Enquiry alongwith his Defence representative. He has further stated that he made his enquiry in Bodh Gaya Branch of the Bank, where no D.R. was brought by the workman. That the workman told that he did not need a D. R. Deposing further he has stated that there is no provision in the Bipartite Settlement that in case of confession of charge there is no need of enquiry. That none of the parties submitted their braiefs. He denied the allegation that by coercion and prevailing upon the workman he violated the Principles of Natural Justice and got a confessional statement from him. That a notice regarding the venue of the enquiry was given to him (the worker).

30. Birendra Kumar MW2 was the Chief Manager in the Zonal Office of Bank of India at relevant time of enquiry. That he was appointed Disciplinary Authority regarding the enquiry against worker Binay Kumar. That he examined the enquiry report, the Findings of the Enquiry Officer and held personal hearing of the workman in May, 2002. That thereafter he awarded punishment for the dismissal of the workman. That in course of personal hearing also workman Binay Kumar confessed his guilt. That in view of the gravity of the misconduct of the workman the punishment awarded to him is legal and proper. He produced the letter of his appointment and record of enquiry, which is marked Ext. M/1. In course of his cross-examination he has stated that there were four Chief Managers during the period he was posted in the Zonal Office, Patna. That the appointment of the Disciplinary Authority is made either by the Managing Director or by the person who has been delegated power by him. He could not say who was the Appellate Authority in respect of the workman. He also could not say whether the Zonal Officer was his Appellate Authority or not. That he has no knowledge that the Appellate Authority could not appoint the Disciplinary Authority. That he was appointed the Disciplinary Authority for entire Zone. That he did not remember where he made personal hearing in this case, perhaps he made the prsonal hearing after going to the Branch. That he could not say who was the appointing authority of Binay Kumar the workman. That prior to awarding his punishment he had consulted the Chief Vigilance Officer as per Rule. That he had recommended for dismissal of service and not only for stopping his two increments. He denied the suggestion made to him that he did not apply his mind properly in awarding the punishment. He also denied the suggestion that his appointment was not properly made.

31. It would appear from evidence of MW1 that on being appointed the Enquiry Officer he issued notices to both the parties. This fact has been denied by the workman Bineay Kumar (WW3) in para 8 of the evidence. He has stated that P. K. Tripathy the Enquiry Officer did not issue him any notice regarding the date of enquiry. That, however, he appeared before the Enquiry Officer in the Bank on 26-3-2002 at 11 A.M. as per direction contained in Memo dated 18-3-2002 of the Disciplinary Authority. We find from

Ext. M. which is the findings of Enquiry held by P. K. Tirpathy, the Enquiry Officer, that there is mention of an intimation having been given to Binay Kumar the workman regarding the date of enquiry which is 26-3-2002. However, except this there is no other paper filed on behalf of the management to show that such a notice regarding date of enquiry was given to him the workmen. It may be stated here that in any view of the matter the workman appeared before the Enquiry Officer on the dated fixed at the fixed venue and, therefore, it can not be said that much prejudice was caused to the workman on this score, therefore, the plea of the workman that the Enquiry Officer did not issue any notice to him intimating the date for holding domestic enquiry is not very vital and does not adversely effect the workman.

32. It has been argued on behalf of the workman that the appointment of the Disciplinary Authority is not proper, this fact has been denied by Birendra Kumar. M.W. 2 who is the Disciplinary Authority in this case. The management has filed a photo copy of the order dated 10-7-2001 issued by Zonal Manager, Patna Zone of Bank of India. This is Ext. M/1. Through this order a list of Disciplinary and Appellate Authorities in respect of workman working in the Bank Office/Establishment in India has been issued. From Sl. No. 3 it appears that Chief Manager Deputy Zonal Manager in Scale IV is the Disciplinary Authority and Joint Zonal Manager in Scale V is the Appellate Authority for all misconduct in respect of all Branches directly under the control of Zonal Office. In view of this letter the appointment of Chief Manager of the Bank of India as Disciplinary Authority can not be said to be improper.

33. It is the case of the workman that a copy of proceeding of the Enquiry Officer was not given to him which is mandatory as per provisions of Bipartite Settlement. That no show cause, chargesheet or explanation letter was issued to him before putting him under suspension. The workman has stated this fact in para 8 of the Deposition. It will not be out of place to mention here that non issue once of show cause notice is not fatal for the workman. It has been held in Associated Cement Companies Ltd. Vs. T.C. Shri Niwas (1984) II L.L.J-105 (S.C.) That neither the ordinary law of the land nor the Industrial law requires an employer to give a show cause notice to the workman before imposing Disciplinary punishment on him..... Such requirement would unnecessarily prolong Disciplinary Enquiries which in the interest of industrial peace should be disposed of in as short a time as possible. In another case reported in Hamdard Dwakhana Wakf Vs. its workman (1962) -II LLJ 772 (S.C.) it has been held, that rules of Natural justice do not make it necessary for the employer to give an opportunity to meet the punishing authority before imposing the punishment and all that is necessary is that a fair enquiry should be held. In view of the aforesaid rulings the plea advanced on behalf of the workman that no show cause notice or explanation was served upon him before putting him under suspension is not fatal and does not effect his case adversely.

34. The main allegation of the workman is that a letter regarding the confession of the guilt was written by

him under threat and coercion by the Enquiry Officer M. W. 1 and also by the Disciplinary Authority M. W. 2. In his written statement as well as in his evidence the workman Binay Kumar (W.W. 3) has stated in para 12 that on 6-2-2002 the Bank Manager got a statement written by him under threat of arrest. He also directed him to give the same statement before Sri V. M. Kumar the Bank Officer when he would appear before him on 7-2-2002. He has stated in para 10 of his evidence that when he appeared before the Enquiry Officer on 26-3-2002 he gave in writing to the Enquiry Officer that he had appointed Sri B. Prasad the General Secretary to represent him before the Enquiry. He has proved this letter which is marked Ext. W/5. A perusal of this letter shows that he had appointed Sri B. Prasad, General Secretary, Bank Employees Federation, Bihar to represent him before the Enquiry Officer. Deposing further he has stated that this letter was received by the Enquiry Officer but B. Prasad was not allowed to represent him by the Enquiry Officer. In para 11 he has further stated that in course of enquiry the Enquiry Officer asked him to write down whatever he directed to him. That this will save his service. That due to this false promise he wrote the letter as directed by the Enquiry Officer and not voluntarily. In para 12 he has stated that his Disciplinary Authority, B. Kumar, who was the Chief Manager of the Zonal Office of the Bank of India and also his Disciplinary Authority, came to the A. N. Puri Branch, Gaya in the Chamber of the Manager of the Bank and made personal hearing. The Bank Manager of A. N. Puri Branch was also present there. That both of them threatened and pressurized him to write the same letter which he had written earlier, in which case his services would be re-instated, otherwise he would be dismissed. That under pressure and threat of losing his job he wrote these letters as per direction of the aforesaid two officers.

35. In this regard we may mention the evidence of M. W. 1 and M. W. 2. M. W. 1 in para 2 of his evidence has stated that in course of enquiry the workman Binay Kumar confessed his guilt. He also examined Bank witnesses whom the workman declined to cross-examine. M. W. 2 has stated in para 1 of his evidence that during course of personal hearing Binay Kumar workman confessed his guilt. Both of them have stated that the workman wrote these letters confessing his guilt voluntarily and not due to any pressure or coercion by them.

36. We have perused the record of Domestic Enquiry filed by the management which run into several pages. The Enquiry findings which has been marked Ext. M on behalf of the management, shows that as the C.S. E. have already admitted his guilt, he did not propose to make enquiry elaborately. That some witnesses namely L. N. Jha, Manager, D. Bosh, Staff Officer, J. M. Meena, Staff Officer, A. K. Singh, Staff Officer Zafar Ishlam. C. T. O. were examined by the Enquiry Officer who all supported the allegations made against the workman. The Enquiry findings further show that the C.S. E. was advised to produce list of defence documents and defence witnesses, but the C.S. E. stated that since he admitted his guilt, he had no defence documents or defence witnesses. On this statement of the C.S.E. the Enquiry Officer concluded the enquiry on

26-3-2002 at 4.30. P.M. He submitted his report to the Disciplinary Authority in which he held that it was clearly established as well as admitted that the C.S.E had altered the entry in the Bank records and had taken pecuniary advantage of the same. It further appears from the report that the C.S. E. had refunded Rs. 15000 to the Bank when the fraud was detected. He concluded his enquiry saying that C.S. E. Binay Kumar had acted in a manner prejudicial to interest of the Bank and had committed fraud on two occasions.

37. From the aforesaid Enquiry findings it would appear that several Bank Staff who were examined by the Enquiry Officer supported allegations against Binay Kumar-C.S. E. There does not appear to be any serious flaw in the Domestic Enquiry.

38. It was submitted on behalf of the workman that he was not allowed to bring his defence representative Sri B. Prasad to represent him in the domestic enquiry though he had named Sri B. Prasad as his defence representative. It was submitted on behalf of the management that the Appearance of Sri B. Prasad as D.R. was never questioned or refused by the management. That Binay Kumar refused to cross-examine the witnesses produced by the management during the course of domestic Enquiry. No D. R. whosoever appeared on behalf of the workman in course of enquiry. We find from the record (Ext. W/5) that the workman had deputed Sri B. Prasad, General Secretary, Bank Employees' Federation, Bihar as his Defence Representative to represent him before the domestic enquiry. This letter is dated 26-3-2002 from the evidence of M. W. 1. It is clear that the workman refused to cross-examine the witnesses produced by the Bank. In this view of the evidence it becomes clear that in such a situation the workman's defence representative had no role to play, considering all these facts and circumstances we come to the conclusion that the defence representative of the workman was not stopped from working on behalf of the workman or denied the opportunity of representing him. This allegation, therefore is not substantiated.

39. It is the specific case of the workman that he was falsely implicated in a case of defalcation due to the fact that he became a member of a Minority Union. It is the case of the workman that after joining at A.N. Puri Branch of the bank at Gaya in September 2001 he became an active member in organising the workman. That the management which was hands-in-glove with some other set of workmen hatched a conspiracy and placed the workmen under suspension vide order dated 6-2-2002 leveling certain false allegations against him.

40. Sri Binay Kumar W.W. 3 the C.S.E. has supported this fact in his evidence. He has stated that prior to joining at Gaya A.N. Puri Branch he was a member of all India Bank Employee's Association. that this union is the Majority Union. He resigned his membership on 8-1-2002 and became a member of Bank of India Staff Association which is affiliated to Bank Employee's Federation. He also applied for deducting monthly subscription from his salary and also signed the membership form. These are marked Ext. W/1/Ext. W/2 and Ext. W/3. Harishankar Prasad W.W. 1 has

also stated that Binay Kumar became a member of Gaya District Bank Employees' Union which was affiliated to Bank Employees' federation of India. In that Association he was the Organising Secretary. W.W. 3 has stated in para 3 of the deposition that the Bank Manager asked him not to be a member of this Union. Both W.W. 1 & W.W. 2 have stated that since the joining of the Minority Association the workman fell a victim to the wrath of the Bank Authorities. It would be pertinent to note that the M. Ws. examined on behalf of the management have outright rejected this allegation levelled by the workman. We may state here that except the oral allegations there is no other material to substantiate this allegation.

41. It has been further alleged by the workman that he was perssured to admit his guilt under coercion and threat of losing his job and being arrested. As dealt in above the W.W.3 has stated in his deposition that he admitted his guilt in writing before the Enquiry Officer on 6-2-2002 and before the Bank Authority on 7-2-2002 under threat and coercion. It was submitted on behalf of the management that this plea of threat and coercion raised on behalf of the workman is an afterthought and has been set-up just in order to save the skin of the workman and to make out a false defence. That these allegations are nothing but figment of imagination of the workman. We may state here that except the statement of the workman there is nothing on the record to show that the workman confessed his guilt under coercion and threat of losing his job, and being arrested.

42. It was next submitted on behalf of the workman that he was working in the Magadh Gramin Bank since 1980 and thereafter he joined the Bank of India. That in course of his employment he had a spotless record and there was no allegation whatsoever against him. That this fact should have been considered by the Disciplinary authority, before awarding him extreme punishment of dismissal from service. He further argued that it should have been considered by the Bank that a sum of Rs. 15000/- which the workman's wife had gone to deposit in her husband's account was diverted to the credit of the Bank. In any view of the matter, it would thus appear that the alleged defalcated sum of Rs. 15000/- was deposited by Workman's wife, which was taken custody of by the bank. That this fact is clear from the enquiry findings Ext. M.

43. Contending further the learned Defence Representative for the workman submitted that the Principles of natural justice have not been adhered to in course of Domestic Enquiry and the entire domestic enquiry appears to be based on the confession of the workman which has been taken from him under threat and coercion and also by offering him a false promise to vacate his suspension and reinstate him to his previous post. The representative of the management submitted that the Principles of Natural justice have been fully adhered to and no departure whatsoever has been made by the management from the Principles of Natural justice. We may state here that some minor defects have been found, as stated above, in the domestic enquiry which are not so serious as to render the entire enquiry proceedings Sans Natural Justice improper and unjustified.

44. The learned D.R. for the workmen submitted that it is clear from both oral and documentary evidence adduced on behalf of the workman that he was appointed by the order of Zonal Manager of the Bank of India but he was dismissed by Chief Manager. Who was also the Disciplinary Authority. That the Chief Manager is junior to the Zonal Manager. That it is the established rule that a person can be dismissed only by the appointing authority and not by an officer junior to him. The learned representative of the management submitted that as per the provisions of the Memorandum of Settlement dated 19-10-1966 and the subsequent settlement between the Management of the Bank and their workers and in modification of the earlier order dated 5-2-1997 the Chief Executive Officer of the Bank appointed Chief Manager, Deputy Zonal Manager in Scale IV as the Disciplinary Authority and the joint Zonal Manager in Scale V as the Appellate Authority. This fact would show from Ext. M/1. filed on behalf of the management. We may state here that this fact is fully substantiated by perusal of Ext. M/1. Needless to say that the Chief Manager was the competent authority to pass the order of dismissal from service. Therefore, in view of all these facts it can not be said that the order of dismissal was not passed by a competent authority.

45. It will not be incongruous to mention here that the reference by the Central Government was made to the following effect:—

"Whether the order of punishment to remove Shri Binay Kumar, Cash-cum - Accounts Clerk, from service while working in Gaya Branch of the Bank of India is legal and justified? If not, what relief the workman is entitled to?"

In the light of this reference it will be quite in fitness of things to consider the evidence on the record to examine the correctness and propriety of the quantum of punishment awarded to the workman. In this regard we would refer to some facts available on the record and also some judgements of the Hon'ble Supreme Court as laid down from time to time.

46. It is clear from the aforesaid discussion that the workman admitted his guilt in course of domestic enquiry of the Bank and gave in writing on 6-2-2002 and 7-2-2002 before the Officers of the Bank that he had committed the misconduct by defalcating the Bank money. It is also clear that he expressed his regret and assured that he would not repeat such mistake in future. It also may be mentioned that the defalcated money was deposited by the wife of the workman in the Bank. It is in this context that it has been argued on behalf of the workman that a lenient view should have been taken while awarding punishment to him. That the punishment of dismissal from service is too harsh. Now, we propose to refer to some rulings on this point. It has been held in a ruling reported in (1987) 11 LLJ-491 (gall.) that it is fundamental principle of justice that the punishment should be commensurate with the guilt. That a Judge ought to have equity before his eye. In Rama Kant Mishra Vs. State of U.P. (1982) Lab I.C. 1790 (S.C.) the Hon'ble Supreme Court observed that "It is well recognised

principle of jurisprudence which permits that penalty to be imposed for misconduct that the penalty must be commensurate with the gravity of the offence charged". It is well settled law that even where the Tribunal is satisfied that the act of misconduct alleged against the workman is proved and penalty has to be imposed, it has to examine as to whether the extreme penalty of dismissal or discharge is justified or not in the facts and circumstances of this case. If it comes to the conclusion that the punishment is disproportionate or excessive, to the act of misconduct committed by the workman, it has the power to vary the punishment and impose lesser punishment which it may deem just and fair in the circumstances of the case.

47. In the light of the evidence on the record of the domestic enquiry it is clear that the workman expressed his regret and assured the Bank not to commit such misconduct in future. The money defalcated by him was also made good to the Bank. The workman is aged 49 years and still about 11 years of service is left to be rendered by him. It is stated that his entire family is in ruins and facing many difficulties in carrying on his family affairs and is also on the brink of starvation. Considering all these facts we are of the opinion that the punishment to remove Sri Binay Kumar Cash-cum-Accounts Clerk from service while working in Gaya A.N. Puri Branch is very harsh and disproportionate to the misconduct alleged against him.

48. On a resume of all the facts and circumstances on the record we are of the opinion and accordingly hold that the order of removal of the workman Binay Kumar is too harsh and disproportionate to his guilt and accordingly it is set aside. It is ordered that the workman Sri Binay Kumar be reinstated to his previous position in service forthwith. However, he will not get his salary for the period of his suspension. It is however, made clear that this will not be treated as a breakage in his service. He will be entitled to all the benefits attached to his service. This order must be implemented within a period of one month from the date of publication of this Award.

49. Award accordingly.

OM PRAKASH SINHA, Presiding Officer

नई दिल्ली, 19 अक्टूबर, 2005

का.आ. 4252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार तूतीकोरन स्टीवडोरस् एसोसिएशन के प्रबंधन के संबंध विद्योक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 33/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-2005 को प्राप्त हुआ था।

[सं. एल-44011/1/91-आई आर(एम)]

सी. गंगाधरन, अवसर सचिव

New Delhi, the 19th October, 2005

S.O. 4252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 33/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tuticorin Stevedores Association and their workman, which was received by the Central Government on 14-10-2005.

[No. L-44011/1/91-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Industrial Dispute No. 33/2003

Thursday, the 27th July, 2005

Present:

K. JAYARAMAN, Presiding Officer

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Tuticorin Stevedores Association and their workmen)

BETWEEN:

The General Secretary, : I Party/Claimant
Tuticorin Port Ship
& Shore Cargo
Handling workers Union,
Tuticorin

AND

The Secretary, : II Party/Management
Tuticorin Stevedores Association,
Tuticorin.

APPEARANCE:

For the Claimant : None
For the Management : M/s. Peppin Fernando,
Advocates.

AWARD

The Central Government, Ministry of Labour vide order No.L-44011/1/91-IR(M) dated 18-01-2001 has referred this industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is:-

"Whether the following charter of 7 demands raised by the Port Cargo Handling Workers Union against the management of Tuticorin Stevedores Association are justified? If so, what relief the concerned workmen are entitled to?"

Demand 1: Port Cargo Handling Workers should be provided with 21 days of minimum guarantee.

Demand 2: Workers be paid 50% of the time rate wage as attendance allowance.

Demand 3: Provision of two sets of uniforms per year as also Washing allowance.

Demand 4: Additional Payment while handling cargos Containing dust.

Demand 5 : Creation of Foremen and Supervisors Categories and filling them by promotion.

Demand 6 : Promotional norms should be defined.

Demand 7 : Workers deputed for work in the outer ships be paid additional amount as disturbance/dislocation allowance.

2. After the receipts of the reference, it was taken on file as I.D.No.33/2003 and notices were issued to both the parties. Even though the II Party/Management has appeared through their advocate, it was reported that the I Party Union has amalgamated with some other union and therefore, notices were returned. Subsequently, after a long lapse of time, the Govt. has corrected the name of the I party as General Secretary, Tuticorin Port Ship & Shore Cargo Handling Workers Union, Tuticorin and after the correction of I Party's name, again notices were sent to both sides. But the I Party has not appeared before this Court and he was set ex-parte. Though the II Party/Management appeared through an advocate, he has not filed any objection memo or Counter Statement with regard to this dispute. Therefore, both parties remained absent and they were set ex-parte.

3. In such circumstances the points for my determination are—

- (i) "Whether the charter of demands raised by the Port Cargo Handling Workers Union against the II Party/Management is justified?
- (ii) To what relief the concerned employees are entitled?"

Point No. 1:

4. Even though both parties have received the notice, they have not filed any Claim Statement or Counter Statement in this case. Therefore, this Tribunal is not in a position to pass any award in this dispute. I find both parties are not interested in prosecuting this dispute pending before this Tribunal. As such, 'No relief Award' is passed in this industrial dispute.

Point No. 2 :

The next point to be decided in this case is to what relief, the concerned employee are entitled?

5. In view of the above, No relief Award is passed in this industrial dispute. No Costs.

6. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th July, 2005.)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 19 अक्टूबर, 2005

का.आ. 4253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक ऑफ

बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाट (संदर्भ संख्या 1/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-2005 को प्राप्त हुआ था।

[सं. एल-12011/180/1999 आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th October, 2005

S.O. 4253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 1/2001 of the Industrial Tribunal, Bikaner as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 14-10-2005.

[No. L-12011/180/1999-IR (B-II)]

C. GANGADHARAN, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण, बीकानेर

पीठासीन अधिकारी : श्री के.एल.माथुर, आर.एच.जे.एस.

नं.मु. केन्द्रीय औद्योगिक.वि.प्रसंग सं. 1 सन् 2001

राधेश्याम पुत्र भगवानदास - जरिये अध्यक्ष रेलवे केज्युअल

लेबर यूनियन, बीकानेर (पं. संख्या 36/69) डागा स्कूल के पास

बीकानेर - प्रार्थी/श्रमिक - यूनियन

विरुद्ध

जनरल मैनेजर, बैंक ऑफ बड़ौदा, आनन्द भवन, चौथा तल

संसार चन्द्र रोड, जयपुर.

- प्रार्थी/नियोजक

प्रसंग अन्तर्गत धारा 10 (1) (घ), औद्योगिक विवाद अधिनियम, 1947

उपस्थिति :—

1. श्री अरविन्दसिंह सेंगर, श्रमिक प्रतिनिधि, प्रार्थी पक्ष के लिये

2. श्री हरेन्द्र कुमार महोबिया, अधिवक्ता, अप्रार्थी नियोजक के लिये

अधिनिर्णय

दिनांक, 4 जून, 2005

भारत सरकार के श्रम मंत्रालय द्वारा जारी आदेश क्रमांक एल-12011/180/89/आर (बी-II) दिनांक 10 जनवरी, 2001 द्वारा औद्योगिक विवाद अधिनियम, 1947 (जिसे आगे चलकर केवल अधिनियम कहा जायेगा) की धारा 10 की उपधारा (1) के खण्ड (घ) के अधीन प्रेषित इस प्रसंग के अन्तर्गत श्रमिक राधेश्याम की सेवा मुक्ति से सम्बन्धित एक विवाद अधिनिर्णयार्थ इस न्यायाधिकरण में भेजा था, तदुपरान्त समसंख्यक शुद्धिपत्र दिनांक 18 जनवरी, 2001 जारी करते हुए बैंक ऑफ इंडिया के स्थान पर बैंक ऑफ बड़ौदा पढ़े जाने का निर्देश अंकित किया गया है। इस प्रकार इस न्यायाधिकरण के समक्ष लंबित विवाद निम्न प्रकार से पढ़े जाने योग्य है :—

“Whether it is a fact that Shri Radhey Shyam Swami was engaged on Casual basis by the management of Bank of Baroda during the period from 26-7-93 to 5-5-97 and that he has completed 240 days service in the year, 1995 and 1996? If so, whether the action of the management to terminate his services w.e.f. 6-5-97 is legal and justified? If not justified what relief and benefits is the disputant entitled to and from what date.”

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया, दोनों पक्षकारों द्वारा अपने-अपने लिखित अभिवचन पेश किये गये हैं अर्थात् प्रार्थी श्रमिक राधेश्याम (जिसे आगे चलकर केवल प्रार्थी श्रमिक कहा गया है) के द्वारा प्रस्तुत क्लेम का जवाब अप्रार्थी नियोजक पक्ष द्वारा दिया गया है।

3. प्रकरण के तथ्य संक्षेप में इस प्रकार से बतलाये गये हैं कि प्रार्थी श्रमिक द्वारा अपना क्लेम विवरण इस आशय के साथ पेश किया गया है कि उसकी नियुक्ति दिनांक 26-7-1993 को बैंक ऑफ बड़ौदा की शाखा सादुलपुर (राजगढ़) जिला चुरू के यहां सुखदेव चौधरी शाखा प्रबन्धक के द्वारा मौखिक आदेश से बतौर कैप्युल लेबर के रूप में की गयी थी और उसको सेवा मौखिक आदेश से ही 5-5-97 के बाद दोपहर तथा 6-5-97 के पूर्वान्हन से बतौर छंटनी के तौर पर समाप्त कर दी गयी, उसकी सेवा दिनांक 26-7-93 से 5-5-97 तक लगातार रही और इस अवधि में किसी प्रकार का सेवा में व्यवधान नहीं था और उसके कार्य के बारे में कोई शिकायत नहीं थी, उसे चपरासी के पद पर नियुक्त किया गया था जिसका कार्य बैंक की क्लियरिंग लाना, पोस्ट ऑफिस से डाक लाना, अन्य बैंकों से चैक लाना व देकर आना, पार्टियों को उनकी बिल्टियाँ देकर आना, पीओन बुक में डिलीवरी की एंट्री करना आदि-आदि थे, इसके अलावा दफ्तर में चपरासी का कार्य करना, पानी भरना, कर्मचारियों को पानी पिलाना आदि था, नियुक्ति के समय उसे 56 रु. प्रतिदिन के हिसाब से तथा बाद में 80 रु. प्रतिदिन के हिसाब से भुगतान किया जाता था। एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य लगातार करने वाला वह औद्योगिक कर्मचारी हो गया था, उसकी सेवा समाप्त करने पर एक माह का नोटिस अथवा नोटिस वेतन एवम् किसी प्रकार का मुआवजा नहीं दिया और उस जैसे कार्य करने वाले कर्मचारियों की वरिष्ठता सूची घोषित नहीं की गयी, पहले आये पीछे जाये के सिद्धान्त की पालना नहीं की गई, उसकी सेवा जानबूझकर समाप्त की गयी क्योंकि शाखा प्रबन्धक अपने मिलने वाले को रखना चाहते थे और उसकी सेवा समाप्ति करने के पश्चात् 4-5 दिन बाद जितेन्द्र कुमार शर्मा को रख लिया गया। प्रार्थी द्वारा यह आक्षेप लगाया गया है कि उसकी सेवा अधिनियम की धारा 25-एफ, जी, एच, एवम् नियम 77-78 के खिलाफ समाप्ति की गयी है और सेवा समाप्ति से पूर्व उसे अपने कार्य के बारे में कोई आरोप आदि नहीं दिये गये और सेवा समाप्त करने की सूचना निर्धारित फार्म पर राज्य सरकार को नहीं दी गयी तथा स्वीकृति भी नहीं ली गयी, प्रार्थी ने स्वयं का सेवामुक्ति दिनांक से बेरोजगार रहना अंकित करते हुए पुनः सभी देय लाभों सहित अप्रार्थी के नियोजन में पुनः बहाल करने व देय एरियर पर बैंक दर से ब्याज भी दिलाये जाने की प्रार्थना की गयी है।

4. अप्रार्थी - जनरल मैनेजर, बैंक ऑफ बड़ौदा के द्वारा प्रस्तुत अपने जवाब दावे में प्रकरण का प्रतिवाद करते हुए यह जवाब दिया गया है कि राधेश्याम प्रार्थी को कभी नियुक्ति नहीं दी गयी और न ही सेवा बतौर छंटनी के समाप्त की गयी। अन्य सभी तथ्यों को अस्वीकार करते हुए प्रार्थी द्वारा अपने क्लेम को तोड़मरोड़ कर प्रस्तुत करना बताया है और यह भी अंकित किया है कि जब वह बैंक का कर्मचारी ही नहीं था तो उसके जैसे व्यक्तियों की वरिष्ठता सूची घोषित करना, लिखना अर्थहीन है, सेवा में कर्मचारी रखने का अधिकार शाखा प्रबन्धक को नहीं है, प्रार्थी राधेश्याम बतौर कर्मचारी कभी नियोजित नहीं रहा है, वह अन्यत्र कार्यरत है व रहा है अतः वह कोई सेवा लाभ अप्रार्थी से प्राप्त करने का अधिकारी नहीं है। अतिरिक्त आपत्तियों के रूप में इस प्रकार की आपत्तियाँ भी ली गयी हैं कि कथित रेलवे कैप्युल लेबर यूनियन का बैंक ऑफ बड़ौदा से कोई सम्बन्ध नहीं है और इस नाम की यूनियन अप्रार्थी के ट्रेड से सम्बन्धित नहीं है और ना ही श्रमिक ने इस यूनियन का सदस्य होने बाबत अप्रार्थी को कोई सूचना नहीं दी। अप्रार्थी के अनुसार श्रमिक राधेश्याम को जब जिस दिन के लिये रखा गया उस दिन ही उस आकस्मिक

कार्य का भुगतान प्राप्त कर लिया, बैंक में कोई भी व्यक्ति केवल इस आधार पर नियमित रोजगार के लिये पात्र नहीं होता है कि उसने अस्थायी आधार पर आकस्मिक दैनिक वेतन भोगी के रूप में कार्य किया है, बैंक जब स्वयं उस संवर्ग की रिक्तियाँ स्वीकृत और प्रकाशन करता है और अपनी प्रक्रिया से नियोजित करता है और यह प्रक्रिया नियोजन समिति के मार्फत होती है ऐसी कोई प्रक्रिया प्रार्थी श्रमिक के मामले में नहीं हुई है जिससे स्पष्ट है कि वह अप्रार्थी के यहां नियोजित नहीं हुआ और नियोजन में नहीं रहा है, श्रमिक ने यह तथ्य छुपाया है कि उसका भाई बाबूलाल स्वामी बैंक आफ बड़ौदा में उस समय कार्य करता था, उसके कार्य करते हुए उसके निवेदन पर जब कभी किसी दिन कोई अवकाश पर रहता तो राधेश्याम को उस दिन के लिये निश्चित कार्य व राशि पर कार्य करवा लेते थे जिसका उसे भुगतान दे दिया जाता था इससे प्रार्थी राधेश्याम का कोई नियोजन का अधिकार नहीं बनता है, जवाब को चरण सं. 25 में श्रमिक को कार्यअवधि और किये गये भुगतान का विवरण अंकित करते हुए कथन किया गया है कि उसने एवजी कार्य में भी किसी भी कलेण्डर वर्ष में 240 दिन पूर्ण नहीं किये हैं, उसने यह तथ्य छुपाया है कि उसने अपने भाई जो बैंक में कार्यरत था की मदद से उसकी भाभी के नाम जनरेटर का ठेका भी ले लिया था और भाभी की ओर से प्रार्थी जनरेटर चलाने के बहाने बैंक में रहता था, स्वयं ने भी पानी भरने का ठेका भी प्राप्त कर लिया और आवश्यकता के अनुसार वह पीने का पानी व कूलर भरने का ठेका भी लेना शुरू कर दिया जो अपनी सुविधा के मुताबिक 15-20 मिनट में पानी भरके चला जाता था उसके कार्य के लिये कोई पाबन्दी नहीं थी और पानी भरने का उसे भुगतान दिया जाता था, राधेश्याम ने यह भी छुपाया है कि उसने दिनांक 27-11-96 को आखिरी बार अस्थायी आकस्मिक कार्य किया था और उसके बाद उसने शाखा का दैनिक वेतन पर कार्य नहीं किया, उसने भिन्न-2 नाम से कई कार्यों हेतु ठेके लिये हुए थे वह बैंक का नियोजित कर्मचारी नहीं रहा बल्कि उसका मुख्य कार्य ठेका देना व ठेकों का कार्य करवाना था, उसने यह भी छुपाया है कि उसने पीने का पानी भरने का ठेका भी अप्रैल 97 से मात्र 24 दिन ही लिया था 6 मई 97 तक उसने कोई कार्य लिया ही नहीं है, अप्रार्थी का यह भी अभिकथन है कि वह अप्रार्थी बैंक में नियोजित नहीं था व ठेके पर कार्य करवाता था और उसने अनुचित लाभ प्राप्त करने के प्रयोजन से यह विवाद देरी से उठाया है जो सफल होने योग्य नहीं है, चपरासी या चतुर्थ श्रेणी कर्मचारी के नियोजन के लिये सक्षम अधिकारी न्यूनतम स्तर पर क्षेत्रीय प्रबन्धक होता है और क्षेत्रीय प्रबन्धक ने कभी भी राधेश्याम को नियोजित नहीं किया उसके स्वयं के अभिवचन विरोधाभासी हैं, बैंक नियोजक एवम् बैंक यूनियन के मध्य समय-समय पर हुए समझौते भी प्रार्थी की कोई मदद नहीं करते हैं अतः प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

5. पक्षकारों द्वारा अपने-अपने पक्ष समर्थन में प्रस्तुत साक्ष्य के दौरान प्रार्थी पक्ष की साक्ष्य में स्वयं प्रार्थी राधेश्याम ने अपना शपथपत्र प्रस्तुत किया है जिसके विपरीत अप्रार्थी बैंक की तरफ से सुखदेव चौधरी तत्कालीन वरिष्ठ शाखा प्रबन्धक बैंक ऑफ बड़ौदा राजगढ़ द्वारा अपना शपथपत्र पेश किया है, प्रत्येक पक्ष द्वारा एक-दूसरे पक्ष के साक्षी से जिरह की है एवम् प्रलेखीय साक्ष्य भी प्रस्तुत की गयी हैं।

6. विद्वान पक्षकारों की बहस सुनी गयी एवम् पत्रावली का अवलोकन किया गया, हमारे समक्ष लंबित इस प्रसंग के निस्तारण के लिये प्रमुख रूप से विचारणीय प्रश्न यही है कि क्या प्रबन्धतंत्र बैंक ऑफ बड़ौदा द्वारा प्रार्थी श्रमिक राधेश्याम की दिनांक 6-5-97 से सेवा पृथक् करना उचित एवम् वैध है और यदि नहीं तो वह क्या राहत व लाभ प्राप्त करने का अधिकारी है ?

इस बिन्दु की सिद्ध करने का भार प्रार्थी पर था। यहाँ यह उल्लेख करना समीचीन होगा कि श्रमिक ने अपने प्रार्थनापत्र दिनांक 13-5-2002 द्वारा नियोजक से पिओन डिलीवरी बुक न्यायालय में प्रस्तुत करवाने का निवेदन किया था, प्रत्युत्तर में नियोजक ने यह बताया कि पिओन बुक केवल 5 वर्ष तक ही रखी जाती है जिसे दुबकाया जा रहा है एवम् बाद में विनोद कुमार चांवरिया का इस आशय का शपथपत्र भी प्रस्तुत किया गया कि पिओन बुक उपलब्ध नहीं हो रही है और 5 वर्ष तक ही रखने का प्रावधान है और इस प्रकार नियोजक ने तलबिदा पिओन बुक न्यायालय में प्रस्तुत की।

7. इस सम्बन्ध में प्रार्थी राधेश्याम ने साक्ष्य के दौरान प्रस्तुत अपने शपथपत्र में क्लेम के तथ्यों की पुनरावर्ती करते हुए बताया कि उसकी नियुक्ति 26-7-93 की बैंक ऑफ बड़ौदा की सादुलपुर शाखा में शाखा प्रबन्धक के मौखिक आदेश से आकस्मिक श्रमिक के रूप में की गयी और शाखा प्रबन्धक के आदेश से ही दिनांक 5-5-97 के बाद दोपहर से एवम् 6-5-97 को पूर्वाह्न से उसकी सेवायें बतौर छंटनी समाप्त कर दी गयी, इस अवधि में अर्थात् 26-7-93 से 5-5-97 तक प्रार्थी की सेवा निरन्तर रही, इसमें कोई विराम नहीं है तथा प्रार्थी का कार्य बैंक की क्लीयरिंग, पोस्ट ऑफिस से डाक, अन्य बैंक से चैक लाना-देना, पार्टियों को उनके घर/दुकान पर उनकी बिल्टियां देकर आना, पिओन बुक में डिलीवरी की एंट्री करना आदि था, इसके अलावा अप्रार्थी के कार्यालय में चपरासी के कार्य करना, पानी भरना और कर्मचारियों को पानी पिलाता था एवम् प्रार्थी को 56 रु. प्रतिदिन के हिसाब से एवम् बाद में 80 रु. प्रतिदिन के हिसाब से भुगतान किया जाता था, प्रार्थी ने एक कलेंडर वर्ष में 240 दिन से अधिक कार्य करने पर लगातार कार्य करने वाला औद्योगिक कर्मकार हो गया परन्तु फिर भी उसकी सेवायें अवैध रूप से समाप्त कर दी गयी एवम् सेवा समाप्त करने के पूर्व प्रार्थी को एक माह का नोटिस अथवा नोटिस वेतन एवम् छंटनी मुआवजा नहीं दिया गया, प्रार्थी जैसा कार्य करने वाले कर्मकारों की वरिष्ठता सूची प्रकाशित नहीं की गयी तथा प्रथम आये अंत में जाये के सिद्धान्त की पालना नहीं की गयी। प्रार्थी की सेवायें जानबूझकर समाप्त की गयी थी क्योंकि शाखा प्रबन्धक अपने निजी मिलने वाले व्यक्ति को रखना चाहते थे और प्रार्थी की सेवायें समाप्त करने के 4-5 दिन बाद जितेन्द्र कुमार शर्मा, को नियुक्त कर दिया। प्रार्थी सेवा समाप्ति से आज तक बेरोजगार है, अप्रार्थी को पिओन बुक की छाया प्रति प्रदर्श डब्ल्यू. 1 और 2 है जो नियोजक से पेश करवाने का निवेदन प्रार्थी ने 13-5-2002 को किया था परन्तु अप्रार्थी ने पिओनबुक प्रस्तुत नहीं की तथा प्रार्थी ने समय-समय पर नौकरी हेतु प्रार्थनापत्र प्रदर्श डब्ल्यू-3 लगायत 8 प्रस्तुत किये थे। पिओन डिलीवरी बुक में पार्टियों व प्रार्थी के हस्ताक्षर हैं जो प्रार्थी द्वारा कार्य करना प्रमाणित करता है अतः प्रार्थी को पुनः सेवा में बहाल करने का आदेश दिया जाये एवम् सेवा मुक्ति दिनांक से आज तक का वेतन मय ध्याज व समस्त सेवा लाभ दिलाये जाने का आदेश दिया जावे। गवाह ने प्रतिपरीक्षण में बताया है कि मुझे सुखदेव चौधरी ने काम पर रखा था और उन्होंने ही निकाला था, उनसे मेरी कोई दुश्मनी नहीं है, मेरा बचत खाता सं० 9263 था जिसमें मुझे चैक द्वारा भुगतान होता था। यह सही है कि प्रदर्श एम-1 द्वारा केवल पानी के लिये ही भुगतान किया गया था जबकि मैंने इसके अलावा भी काम किया था। न्यायालय में जो वाऊचर प्रस्तुत किये गये हैं वे केवल पानी भरने के ही हैं अन्य कोई वाऊचर नहीं है, प्रदर्श एम-5 व 6 से भुगतान मुझे नहीं हुआ है। शपथपत्र की चरण सं० 4 में अंकित भुगतान चैक से कर देते थे नगद नहीं। पिओनबुक की नकलें मुझे 1997 में सुखदेव चौधरी ने दी थी तारीख मुझे याद नहीं है, फोटो प्रति मैंने स्वयं ने करवाई थी। यह कहना गलत है कि मेरे द्वारा पेश की गयी पिओन बुक अधूरी हो जितना

रिकार्ड मेरे पास था उतना रिकार्ड मैंने पेश कर दिया है। प्रदर्श डब्ल्यू. 3-4-5 पर प्राप्ति के हस्ताक्षर नहीं हैं यह तीनों पत्र मुझे स्थाई करने के लिये दिये गये थे। मेरी नियुक्ति नियोजन कार्यालय या बैंक बोर्ड द्वारा नहीं हुई थी।

इसी सम्बन्ध में नियोजक के साक्षी सुखदेव चौधरी ने साक्ष्य के दौरान प्रस्तुत अपने शपथपत्र में जवाब क्लेम के तथ्यों की पुनरावर्ती करते हुए बतलाया है कि मैं बैंक में राजगढ़ में दिनांक 11-1-94 से 25-11-97 तक वरिष्ठ शाखा प्रबन्धक के पद पर कार्यरत था तथा 26-7-93 को मैंने राधेश्याम को कर्मचारी के रूप में नियुक्त नहीं किया मुझे चतुर्थ श्रेणी कर्मचारी नियुक्ति का अधिकार भी नहीं था, राधेश्याम को समय-समय पर पानी पिलाने, भरने इत्यादि के लिये अल्पसमय के लिये ठेका दिया जाता था जिसके वाऊचर्स प्रदर्श एम-1 से 35 है जिस पर मेरे व मेरे सहयोगी डी.एस. ठाकुर के हस्ताक्षर हैं। राधेश्याम ने कभी भी यह सूचना नहीं दी थी कि वह रेलवे कैज्यूअल लेबर यूनियन का सदस्य है। दैनिक वेतन भोगी को रखने के लिये पहली शर्त यह होती है कि उसका कार्य उसी दिन के लिये होता है और राधेश्याम को भी जब जिस दिन के लिये रखा गया उस दिन ही उसने आकस्मिक कार्य किया एवम् भुगतान प्राप्त कर लिया और इस आधार पर वह नियमित रोजगार का पात्र नहीं होता है। बैंक द्वारा संवर्ग को रिक्तियां निकाले व प्रकाशित करके ही नियोजित किया जाता है और नियोजन के लिये स्थानीय नियोजक कार्यालय से योग्य उम्मीदवार के नाम मंगवा व प्रकाशित करके नियोजित समिति के मार्फत चयन किया जाता है और ऐसी कोई प्रक्रिया प्रार्थी राधेश्याम के मामले में नहीं हुई है जिससे स्पष्ट है कि वह अप्रार्थी के नियोजन में नहीं रखा। प्रार्थी श्रमिक ने यह तथ्य छुपाया है कि वह बैंक ऑफ बड़ौदा में उसके कार्यरत भाई बाबू लाल के कार्य करते हुए उसके निवेदन पर जब कभी किसी दिन कोई अवकाश पर रहता था तो उस दिन राधेश्याम से उस दिन के लिये निश्चित कार्य व राशि पर कार्य करवा लेते थे जिसका भुगतान उसे दे दिया जाता था उससे एवं इस प्रकार किये गये भुगतान का विवरण शपथपत्र के पैरा सं० 8 में दिया है से भी राधेश्याम के 240 दिन पूर्ण नहीं होते हैं। राधेश्याम ने यह तथ्य भी छुपाया है कि उसने बैंक में कार्यरत अपने भाई के प्रभाव से अपनी भाभी के नाम से जैनेटर का ठेका भी ले लिया था और स्वयं ही जैनेटर चलाता था और इस बहाने बैंक में रहा करता था और इसी अवधि में राधेश्याम ने पानी व कूलर भरने का ठेका भी प्राप्त किया और अपनी सुविधा के मुताबिक 15-20 मिनट में पानी भर लाता था जिसका भुगतान राधेश्याम को किया गया, कोई अन्य भुगतान नहीं किया गया। यदि प्रार्थी ने अपने भाई के माध्यम से या तत्कालीन शाखा प्रबन्धक की जानकारी में लाये बिना किसी रिकार्ड में कोई इन्द्राज उसके स्थानान्तरण होने के बाद कर दिया है तो भी किसी भी रूप में नियोजन का अधिकारी नहीं हो सकता। राधेश्याम ने यह तथ्य छुपाया है कि उसने भिन्न-भिन्न नामों से कई ठेके लिये हुए थे, वह बैंक का नियोजित कर्मचारी नहीं था बल्कि उसका मुख्य कार्य ठेके देना व ठेकों का कार्य करवाना था इसलिये उसने बैंक का कोई कार्य नहीं किया है, प्रार्थी के ठेकों के कार्यों पर बैंक का कोई नियंत्रण या अनुशासनात्मक नियंत्रण नहीं था। प्रार्थी ने यह तथ्य भी छुपाया है कि उसने पीने के पानी भरने का ठेका भी अप्रैल 1997 से मात्र 24 दिन ही लिया था और 6 मई तक उसने कोई कार्य किया ही नहीं है, प्रार्थी एवम् अप्रार्थी के मध्य नियोजित व नियोजक के सम्बन्ध नहीं रहे अतः वह बैंकिंग व्यवस्था के अन्तर्गत बैंक का कर्मचारी कहे जाने योग्य नहीं है। चपरासी या चतुर्थ श्रेणी कर्मचारी के नियोजित के लिये सक्षम अधिकारी क्षेत्रीय प्रबन्धक होता है और क्षेत्रीय प्रबन्धक ने कभी भी श्री राधेश्याम को नियोजित नहीं किया उसने अपने अभिवचनों में भी क्षेत्रीय प्रबन्धक

द्वारा नियोजित करने का अभिवचन नहीं लिया है, प्रार्थी की सेवायें दिनांक 5-5-97 को बतौर छटनी समाप्त नहीं की गयी तथा औद्योगिक विवाद अधिनियम की धारा 25-एफ. जी. एच. का उल्लंघन नहीं किया गया। पिओनबुक से कागजात डिलीवर करने का कार्य राधेश्याम को नहीं दिया गया ऐसा प्रतीत होता है कि खाली पिओनबुक देखकर उसने अपने भाई की मदद से पिओनबुक बैंक से ले गया व हस्ताक्षर करके फोटो कापी करवाकर पत्रावली में पेश कर दी है, असल पिओनबुक बैंक में खोजने पर नहीं मिली है। प्रार्थी को यह कार्य कभी नहीं दिया गया और न करवाया गया अतः इस पर उसके हस्ताक्षर करवाने का प्रश्न ही नहीं था, राधेश्याम बैंक के लिये विश्वसनीय नहीं रहा और वह बैंक सेवा के लिये योग्य नहीं है। गवाह ने प्रतिपरीक्षण में स्वीकार किया कि राधेश्याम और बैंक के सक्षम अधिकारी के बीच कोई संविदा नहीं हुई थी, यह सही है कि राधेश्याम को बैंक से ही भुगतान होता था क्योंकि वह बैंक का ही काम करता था, जब रिकार्ड नष्ट किया गया, तो इसकी फर्द बनाई या नहीं, मेरे कार्यकाल में कोई रिकार्ड नष्ट नहीं किया गया, पानी भरना और कूलर में पानी भरने की व्यवस्था पहले से ही चली आ रही थी इस बारे में ठेके पर काम करने की कोई स्वीकृति श्रम विभाग से नहीं ली गई थी, यह सही है कि यह कार्य आज भी हो रहा है, प्रदर्श एम-8 में जो लाइन है वह कटिंग की नहीं है, यह सही नहीं है कि इसमें लाइन फेरने के बाद इसमें लिखा गया है यह सही है कि प्रदर्श एम-9 पर तो ऐसी कोई लाइन नहीं खींची गयी है, प्रदर्श डब्ल्यू-3 की प्रति दी होगी, प्रार्थनापत्र प्रदर्श डब्ल्यू-4 तथा 6 की प्रतियां भी शाखा प्रबन्धक को दी है, श्रमिक राधेश्याम की सन् 1997 में कोई वरिष्ठता सूची नहीं निकाली थी क्योंकि वह बैंक का कर्मचारी नहीं था, राधेश्याम को सेवामुक्त करने से पहले कोई नोटिस या मुआवजा आदि नहीं दिया था।

8. विद्वान पक्षकारों की बहस एवम् पत्रावली के अवलोकन से हम देखते हैं कि प्रार्थी राधेश्याम ने बैंक में आकस्मिक श्रमिक के रूप में अपनी नियुक्ति 26-7-93 से होनी एवम् 5-5-97 को बाद दोपहर से अपनी सेवायें समाप्त होनी बताया है और अपना यह कार्यकाल बिना किसी विराम के होना बताया है, सेवाकाल की पुष्टि में श्रमिक राधेश्याम द्वारा बैंक की पिओनबुक की छाया प्रतियां प्रदर्श डब्ल्यू-1 और 2 के रूप में प्रस्तुत की गयी हैं। हालांकि नियोजक ने स्पष्ट रूप से पिओनबुक साधारण होना स्वीकार नहीं किया है बल्कि इसका खण्डन इस प्रकार किया है कि प्रार्थी ने बैंक में कार्यरत अपने भाई की मदद से खाली पिओनबुक लेकर हस्ताक्षर करके छाया प्रति न्यायालय में प्रस्तुत कर दी और यह भी कहा है कि मूल पिओनबुक खोजने पर भी नहीं मिली है। इस प्रकार अप्रार्थी ने बैंक में कथित तौर पर कार्यरत प्रार्थी के भाई पर प्रार्थी के साथ मिली भगत करके पिओनबुक में प्रार्थी के हस्ताक्षर करवाने का आरोप लगाया है। यह प्रकरण काफी पुराना है इतना असा बीत जाने के बावजूद भी अप्रार्थी पक्ष ने यह नहीं बताया है कि प्रार्थी से मिलावट करके पिओनबुक में फर्जी तौर पर हस्ताक्षर करवाने वाले बैंक कर्मचारी प्रार्थी के भाई के विरुद्ध बैंक प्रबन्धक ने क्या कार्यवाही की है और प्रार्थी के विरुद्ध भी दस्तावेजों की कूट रचना करने के आरोप में क्या कार्यवाही की है। प्रार्थी व उसके भाई के विरुद्ध कोई कार्यवाही नहीं करने के कारण अप्रार्थी बैंक के इन तर्कों को कमजोर व बलहीन बनाते प्रार्थी ने बैंक में कार्यरत अपने भाई की मदद से खाली पिओनबुक प्राप्त करके छाया प्रति तैयार कर ली। प्रार्थी ने अपने बयान में स्पष्ट रूप से बताया है कि पिओनबुक की नकलें उसे 1997 में सुखदेव चौधरी ने दी थी एवम् सुखदेव चौधरी ने इस तथ्य का कहीं भी खण्डन नहीं किया है कि उन्होंने पिओनबुक नकल करने के लिये प्रार्थी को दी या नहीं दी। एक ओर तो अप्रार्थी का साक्षी सुखदेव चौधरी एवम् अप्रार्थी बैंक जवाब में

बतलाते हैं कि प्रार्थी को समय-समय पर पानी पिलाने आदि का अल्प समय का ठेका दिया जाता था जिसके भुगतान के वाउचर प्रदर्श एम-1 से 35 हैं और दूसरी ओर यह साक्षी प्रतिपरीक्षण में स्वीकार करता है कि राधेश्याम और बैंक के मध्य बैंक के सक्षम अधिकारी के बीच कोई संविदा नहीं हुई थी और राधेश्याम को बैंक से ही भुगतान होता था क्योंकि वही बैंक का ही काम करता था। नियोजक पक्ष यह भी बताता है कि पानी भरने, कूलर में पानी भरने आदि व्यवस्थाएं पहले से ही चली आ रही थी जिसके बारे में ठेके पर काम कराने की कोई स्वीकृति श्रम विभाग से नहीं ली गयी है। इन हालात में हम देखते हैं कि नियोजक पक्ष ने ऐसा कोई प्रमाण या गवाह प्रस्तुत नहीं किया है जो यह प्रमाणित करता हो कि प्रार्थी ने केवल मात्र ठेके पर ही अप्रार्थी की बैंक में पानी भरने, कूलर में पानी भरने आदि काम ठेके पर किये हैं। प्रार्थी व अप्रार्थी के मध्य हुए इस प्रकार के कथित अनुबंध का रिकार्ड न्यायालय में प्रस्तुत नहीं किया है, केवल मात्र पानी भरने के भुगतान वाउचर्स प्रदर्श एम-1 से 35 के आधार पर यह नहीं कहा जा सकता कि प्रार्थी ने ठेके पर पानी भरने का कार्य ही किया हो। क्योंकि कई विभागों में यह व्यवस्था होती है कि कार्यालय में पानी का कनेक्शन नहीं होने पर कर्मचारी को पानी भरने का अतिरिक्त भत्ता दिया जाता है यह प्रदर्श एम-1 से 35 भुगतान उस रूप का भी हो सकता है। एक ओर तो अप्रार्थी पक्ष यह कहता है कि प्रार्थी ने अपने भाई की मदद से भाभी के नाम से जेनरेटर का ठेका लिया और स्वयं जेनरेटर चलाता था और उसने पानी भरने व कूलर भरने का भी ठेका लिया परन्तु इसकी पुष्टि में कोई भी रिकार्ड प्रस्तुत नहीं किया है अतः अप्रार्थी नियोजक का यह तर्क बलहीन व सारहीन पाया जाता है क्योंकि प्रार्थी द्वारा प्रस्तुत पिओनबुक प्रदर्श डब्ल्यू-1 और 2 के सन्दर्भ में प्रार्थी का यह बतलाना है कि वह डाक लाने ले जाने व कई संस्थानों में डाक देने का काम करता था जिसकी प्रविष्टियां पिओनबुक प्रदर्श डब्ल्यू-1 और 2 में हैं, इस तर्क का खण्डन करने में नियोजक पूर्ण रूप से असफल रहा है। इस सम्बन्ध में नियोजक पक्ष का यह तर्क कि प्रार्थी ने अपने भाई की मदद से खाली पिओनबुक में अपने हस्ताक्षर कर दिये बलहीन व सारहीन पाया जाता है क्योंकि प्रदर्श डब्ल्यू-1 और डब्ल्यू-2 में वितरणकर्ता के कॉलम में अधिकांश स्थानों पर प्रार्थी के हस्ताक्षर हैं व कुछ स्थानों पर अन्य कमचारों के भी हस्ताक्षर हैं एवम् जहाँ प्रार्थी के हस्ताक्षर हैं उस स्थान पर कोई काटछांट या ओवरराइटिंग नहीं है। यदि यह डाक वितरण प्रार्थी ने नहीं किया तो इस प्रदर्श डब्ल्यू-1 व 2 में वितरणकर्ता के कॉलम में किसी अन्य व्यक्ति के हस्ताक्षर होने चाहिये थे। जो नहीं हैं, इससे यह जाहिर होता है कि प्रदर्श डब्ल्यू-1 और 2 में वर्णित डाक वितरण का कार्य प्रार्थी श्रमिक द्वारा ही किया जाता था। न्यायालय में निवेदन के बावजूद भी अप्रार्थी बैंक ने मूल पिओनबुक प्रस्तुत नहीं की है, पिओनबुक उपलब्ध क्यों नहीं हो रही है इसका कोई कारण भी नियोजक पक्ष ने नहीं बतलाया है। यदि मूल पिओनबुक किसी कर्मचारी द्वारा गायब की गयी है तो उसके विरुद्ध क्या कार्यवाही की गयी यह भी नियोजक पक्ष ने नहीं बतलाया है। इन हालात में यह तथ्य पिओनबुक न्यायालय में प्रस्तुत नहीं करने के कारण नियोजक के विरुद्ध प्रतिकूल अवधारणा कारित करने को बाध्य करता है। प्रदर्श डब्ल्यू-2 पिओनबुक में दिनांक 22-4-97 तक की प्रविष्टियां तो अस्पष्ट नजर आ रही है शेष प्रविष्टियों की तिथि स्पष्ट नजर नहीं आ रही है। इस आधार पर यह नहीं कहा जा सकता कि प्रार्थी ने 5-5-97 तक नियोजक के अधीन कार्य नहीं किया। हालांकि प्रार्थी को अप्रार्थी संस्थान के मैनेजर द्वारा चपरासी के पद पर नियुक्त किया जाना प्रमाणित नहीं होता है परन्तु प्रबन्धक के आदेश से आकस्मिक श्रमिक के रूप में नियुक्त किया जाना पाया जाता है, अप्रार्थी संस्थान इस सम्बन्ध में समस्त तथ्य न्यायालय के समक्ष प्रस्तुत करने में असफल रहा है, प्रार्थी की नियुक्ति

अवकाश पर गये कर्मचारी के पद के विरुद्ध या संविदा पर होनी भी नियोजक पक्ष ने प्रमाणित नहीं की है अतः इन हालात में 2000 (1) सी. एल. आर. पृष्ठ 901 में नरेन्द्रसिंह सोलंकी विरुद्ध रॉ एण्ड फ्रिनिशिंग प्रोडक्शन व अन्य, जे. टी. 1999 (6) एस. सी. 536 में एन. एस. गिरी विरुद्ध कार्पोरेशन ऑफ सिटी ऑफ बेंगलोर व अन्य के प्रकरण में माननीय उच्चतम न्यायालय द्वारा, 2002 (II) सी. एल. आर. 1043 में गिरिधर गोपाल सैनी विरुद्ध औद्योगिक अधिकरण व अन्य के प्रकरण में, पृष्ठ 1045 में नगरपालिका लालसोट विरुद्ध बाबूलाल व अन्य के प्रकरण में, माननीय राजस्थान उच्च न्यायालय द्वारा, 2001 (II) सी. एल. आर. 88 में बी. पी. दास गुप्ता विरुद्ध चीफ ऑफ एयर स्टाफ व अन्य के प्रकरण में माननीय दिल्ली उच्च न्यायालय द्वारा ए.आई.आर. 1996 (एस. सी.) 332 में महेरिण्ड कॉर्पोरेटिव शुगर मिल्स लि. बनाम रामकिशन व अन्य के प्रकरण में माननीय उच्चतम न्यायालय द्वारा, 2000 (1) सी. एल. आर. 303 में राजेन्द्र सिंह गहलोत विरुद्ध यूनियन ऑफ इंडिया व अन्य के प्रकरण में माननीय राजस्थान उच्च न्यायालय द्वारा प्रतिपादित सिद्धान्त का लाभ तथ्यों की भिन्नता के कारण नियोजक पक्ष को नहीं दिया जा सकता।

9. विद्वान अधिवक्ता प्रार्थी श्रमिक ने तर्क दिया है कि प्रार्थी ने दैनिक वेतन भोगी कर्मचारी के रूप में 26-7-93 को कार्य करना प्रारंभ किया था और प्रार्थी द्वारा उसकी सेवायें 6-5-1997 के पूर्वान्ह से अर्थात् दिनांक 5-5-97 को अपरान्ह से समाप्त की गयी है। प्रार्थी ने अपने कार्यकाल से सम्बन्धित पिओनबुक नियोजक से न्यायालय में प्रस्तुत करवाने का निवेदन भी किया था परन्तु नियोजक द्वारा बिना कोई उचित कारण दर्शाये पिओनबुक प्रस्तुत नहीं की है जबकि प्रार्थी ने प्रदर्श-डब्ल्यू. 1 और 2 पिओनबुक के कुछ भाग के रूप में प्रस्तुत की है जिसका नियोजक खण्डन करने में सफल रहा है, प्रार्थी श्रमिक की सेवायें समाप्त करते समय उसको एक माह का नोटिस या नोटिस वेतन एवम् छंटनी मुआवजा नहीं दिया गया है तथा नियोजक ने यह भी सिद्ध नहीं किया है कि उनके द्वारा वरिष्ठता सूची प्रकाशित करते हुए प्रथम आये अंत में जाये के सिद्धान्त की पालना की गई है। प्रार्थी श्रमिक की ओर से 2003 लेब.आई.सी. 528 में म्युनिसिपल बोर्ड प्रतापगढ़ बनाम श्रम न्यायालय भीलवाड़ा व अन्य के प्रकरण में माननीय राजस्थान उच्च न्यायालय द्वारा प्रतिपादित सिद्धान्त का उल्लेख करते हुए तर्क दिया गया है कि अंशकालीन कर्मकार को भी कर्मकार माना गया है। विद्वान अधिवक्ता ने 2003 एस. सी. सी. (एल. एण्ड एस.) 1170 में माननीय उच्चतम न्यायालय द्वारा प्रतिपादित सिद्धान्त का उल्लेख करते हुए तर्क दिया कि प्रथम आये अंत में जाये के सिद्धान्त की पालना नहीं करने से सेवामुक्ति आदेश को वैध नहीं कहा जा सकता। विद्वान अधिवक्ता प्रार्थी का यह भी तर्क है कि प्रार्थी की सेवामुक्ति के पश्चात् जितेन्द्र कुमार को नई नियुक्ति दी गई है एवम् प्रार्थी को अवसर नहीं दिया गया है अतः आर. एल. आर. 1991 (2) पृष्ठ 691 में सूर्यप्रकाश शर्मा बनाम राजस्थान टैक्सट बुक बोर्ड जयपुर व अन्य में माननीय राजस्थान उच्च न्यायालय द्वारा प्रतिपादित सिद्धान्त के अनुसार प्रार्थी की सेवामुक्ति अनुचित एवम् अवैध है। विद्वान अधिवक्ता ने ए. आई. आर. 1999 (एस. सी.) 1056 में समिष्ठा दुबे विरुद्ध सिटी बोर्ड इटावा व अन्य के प्रकरण में माननीय उच्चतम न्यायालय द्वारा प्रतिपादित सिद्धान्त का उल्लेख करते हुए तर्क दिया कि प्रथम आये अंत में जाये का सिद्धान्त दैनिक वेतन भोगी कर्मकारों पर भी लागू होता है।

10. उपरोक्त विवेचन के आधार पर हम देखते हैं कि नियोजक द्वारा प्रार्थी की सेवायें 6-5-97 की पूर्वान्ह से अर्थात् 5-5-97 को अपरान्ह से समाप्त की गयी है जबकि प्रार्थी ने दैनिक वेतन भोगी कर्मचारी के रूप में अप्रार्थी नियोजक संस्थान में 26-7-93 से कार्य करना प्रारंभ किया था,

प्रार्थी के कार्यकाल से सम्बन्धित पिओनबुक नियोजक पक्ष द्वारा बिना कोई उचित कारण दर्शाये प्रस्तुत नहीं की है, नियोजक का यह कथन पर्याप्त नहीं है कि ढूँढने पर भी पिओनबुक उपलब्ध नहीं हो रही है जबकि प्रार्थी ने पिओनबुक का कुछ भाग प्रदर्श डब्ल्यू. 1 और 2 के रूप में प्रस्तुत किया है जिसका खण्डन नियोजक पक्ष करने में असफल रहा है अतः प्रदर्श डब्ल्यू. 1 और 2 पर कोई भी अविश्वास करने का कारण प्रतीत नहीं होता है। प्रदर्श डब्ल्यू. -1 और 2 से प्रार्थी का 95 से 97 तक नियोजक के अधीन सेवा करना भली प्रकार प्रमाणित होता है, प्रार्थी को नियोजक के अधीन अन्य कर्मचारी के अवकाश पर जाने से उसके स्थान पर या किसी संविदा के आधार पर नियुक्त होना भी प्रमाणित नहीं होता है क्योंकि इस प्रकार का कर्मचारी डाक लाने-ले जाने व वितरण करने आदि का काम नहीं करता है, प्रार्थी द्वारा केवल मात्र कूलर व पानी भरने का काम टुकड़ों में करना भी प्रमाणित नहीं होता है, नियोजक पक्ष अपने किसी भी तर्क को साक्ष्य से प्रमाणित करने में असफल रहा है, पक्षकारों के साक्ष्य से पाया जाता है कि प्रार्थी श्रमिक की सेवा समाप्ति करते समय उसको एक माह का नोटिस या नोटिस वेतन एवम् छंटनी मुआवजा नहीं दिया गया है तथा नियोजक पक्ष ने यह भी सिद्ध नहीं किया है कि उनके द्वारा वरिष्ठता सूची का प्रकाशन करते हुए प्रथम आये अंत में जाये के सिद्धान्त की पालना की गयी है। श्रमिक को सेवामुक्ति पूर्व रूप से अनुचित एवम् अवैध पायी जाती है। प्रार्थी श्रमिक पूर्व की भांति नियोजक के अधीन सेवा में सवेतन व निरन्तरता के लाभ सहित नियोजित होने का अधिकारी है, चूंकि प्रार्थी ने सेवामुक्ति दिनांक 6-5-97 से आज तक कोई काम नहीं किया है अतः वह इस अवधि का वेतन प्राप्त करने का अधिकारी नहीं है परन्तु उसके द्वारा भुगती गयी परेशानियों को देखते हुए वह 2500 रु. प्रतिरक राशि प्राप्त करने का अधिकारी है तथा आज अवार्ड दिनांक से पुनः बहाल होने तक की अवधि का देय वेतन पूर्व की भांति नियमानुसार प्राप्त करने का अधिकारी होगा।

11. अतः केन्द्रीय सरकार द्वारा प्रेषित इस प्रसंग को उत्तरित करते हुए यह पंचाट इस प्रकार पारित किया जाता है कि प्रार्थी श्रमिक राधेश्याम को प्रबन्धक तंत्र बैंक ऑफ बड़ोदा द्वारा 6-5-97 से सेवा पृथक् करना उचित एवम् वैध नहीं था अपितु पूर्ण रूप से अनुचित एवम् अवैध है, प्रार्थी श्रमिक पूर्व की भांति नियोजक के अधीन सेवा में सवेतन व निरन्तरता के लाभ सहित नियोजित होने का अधिकारी है। चूंकि प्रार्थी ने सेवामुक्ति दिनांक 6-5-97 से आज तक कोई काम नहीं किया है अतः वह इस अवधि का वेतन प्राप्त करने का अधिकारी नहीं है परन्तु उसके द्वारा भुगती गयी परेशानियों को देखते हुए वह 2500 रु. प्रतिरक राशि प्राप्त करने का अधिकारी है तथा आज अवार्ड दिनांक से पुनः बहाल होने तक की अवधि का देय वेतन पूर्व की भांति नियमानुसार प्राप्त करने का अधिकारी होगा।

उक्त अधिनिर्णय अधिनियम की धारा 17(1) के अन्तर्गत केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

के० एल० माथुर, न्यायधीश

नई दिल्ली, 21 अक्टूबर, 2005

का. आ. 4254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय सं. 1 चंडीगढ़ के पंचाट (संदर्भ संख्या आई डी-55/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-10-2005 को प्राप्त हुआ था।

[सं. एल-12012/36/1995-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 21st October, 2005

S.O. 4254.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 55/96) of the Central Government Industrial Tribunal/Labour Court-I, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 20-10-2005.

[No. L-12012/36/95-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR-1, CHANDIGARH.

Case No. I.D. 55/96

Shri S. P. Batra, Ex-Head Clerk, 1731, Phase-VII, Mohali, Distt. Ropar (Punjab.)

.....Applicant

Versus

The Regional Manager, State Bank of India, Region-V, Zonal Office, Punjab, Sector 17-B, Chandigarh..

.....Respondent

APPEARANCES:

For the workman : None

For the management : Shri A.K. Kohli

AWARD

Passed on 15-09-2005

Central Government vide notification No. L-12012/36/95-IR (B.I) dated 10-6-96 has referred the following dispute to this Tribunal for adjudication :

“ Whether the dismissal of Sh. S.P. Batra as Head Clerk in State Bank of India is justified? If not to what relief the workman is entitled?”

2. Management authorised representative requested for returning the reference for want of prosecution as the workman is not at all interested in prosecuting his case. Workman is not appearing on several dates and Regd. A. D. for 26-4-2005 and for 15-9-2005 sent to the workman returned undelivered with the report that no such person found or living. Court notices were issued to him for 6-8-04, 7-10-04, 22-3-05, 26-4-05, 28-6-05 and for today. Advocate of workman Sh. H. S. Hundal who also appeared on court notice to him submitted that earlier he was representing the workman but since long he is not contacting him and he has no instructions further. On his request court notice issued to the workman but he is not appearing. Shri Hundal's statement was also recorded. A.R. for the management submitted that in the circumstances sufficient opportunities have been given to the workman and reference may be returned for want of prosecution.

3. In view of the above submission of the Advocate of the workman and the A. R. of the management, even today workman has not put up appearance upto 3 P.M. I am of the considered view that workman is at all not interested

in prosecuting his case. The reference is returned for want of prosecution. Central Government be informed. File be consigned to record.

Chandigarh.

15-9-05

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 21 अक्टूबर, 2005

का. आ. 4255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या आई डी-35/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-10-2005 को प्राप्त हुआ था।

[सं. एल-41012/168/2002-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 21st October, 2005

S.O. 4255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 35/2003) of the Central Government Industrial Tribunal/Labour Court Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 20-10-2005.

[No. L-41012/168/2002-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT:

SHRIKANT SHUKLA, Presiding Officer

I.D No. 35/2003

Ref. No. L-41012/168/2002-IR(B-I) dtd. 13-3-2003

BETWEEN:

The Divisional Organization Secretary,
Uttar Railway Karmchhari Union,
283/63 Kha Garhi Kanaora (Premwati Nagar)
P. O. Mahanagar, Lucknow-226001

AND

The Sr. Divisional Mechanical Engineer,
Northern Railway, DRM Office,
Hazratganj/The Sr. Divl. Electricity Engineer
Lucknow (U.P.)226001

AWARD

The Government of India, Ministry of Labour referred the following dispute No. L-41012/168/2002-IR(B-I) dated 13-3-2003 for adjudication to Presiding Officer, CGIT-cum-Labour Court, Lucknow;

“क्या रेलवे प्रबन्धन, उत्तर रेलवे, लखनऊ द्वारा स्व. मो. सफी पुत्र स्व. अब्दुल रहमान विद्युत खलासी की पत्नी श्रीमती मेहरुनिसा को 13-2-83 से पेंशन नहीं दिया जाना एवं करूणामूलक आधार पर नौकरी में रखने हेतु (Consider) विचार नहीं किया जाना न्यायोचित तथा न्याय संगत है ? यदि नहीं तो कर्मकार मो. सफी की पत्नी मेहरुनिसा किस अनुतोष पाने की अधिकारी है ?”

The brief facts of the trade union is that one late Mohd. Safi S/o Late Abdul Rahman entered into service of substitute Khalasi in the year 1960 under Electric Chargeman, Town Supply, Charbagh, Northern Railway, Lucknow. Late Mohd. Safi was so employed till 13-1-83. Late Mohd. Safi died on 13-1-83. Widow of Late Mohd. Safi Smt. Mehrunnishan applied for pension gratuity and service through Electric Chargeman on 4-3-83, but she failed to get pension gratuity or service. Smt. Mehrunnishan moved various application in the above regard they are still pending. Trade union has therefore prayed that Smt. Mehrunnishan be awarded pension gratuity & employment on compassionate ground. Worker has filed photo state copy of the cause of death.

Opposite party has filed written statement. It has been submitted by the opposite party that Late Mohd. Safi S/o. Late Abdul Rahman had never been appointed or engaged as substitute Electric Khalasi in the alleged year of 1960 by the management. It has been further submitted that in absence of specific date of alleged appointment/engagement the original appointment letter, casual labour card and other relevant and material documents, this tribunal has no jurisdiction to adjudicate the present dispute. It is further stated that the present dispute has been raised after lapse of about 20 years, without any explanation of delay as such present claim of statement deserves to be rejected with no relief on the ground alone. So far the selection of the worker on 13-5-63 is concerned it is alleged that the letter referred by the trade union does contain any contents to the effect of selection of the deceased Mohd. Safi by the panel committee/selection board duly constituted by the Management. It is further submitted that even the alleged deceased had never been empanelled by the appropriate and competent authority of the management duly authorised and empowered by the authorities of the management. The management has alleged that the union be directed to produce original death certificate allegedly issued by the hospital management. It is further submitted by the management that the alleged death certificate filed with the statement of claim can not be considered to be genuine as the claimant did not depose the contents thereof on oath. It is further submitted that even the deceased Mohd. Safi was not entitled to pensionary and retrial benefits from the management hence the question of entitlement of the claimant to any of the amount or benefit and even for pensionary benefits does not arise at all and she is not entitled to any benefit including pension gratuity etc. From the management. As

also she does not have any right to claim for compassionate appointment in the institution of the management and no such application dt. 4-3-83 has ever been submitted to the management by the claimant, the receipt if any found in possession of the claimant, the same is forged and fictitious. It is alleged that Mohd. Safi did not work under the alleged Electric Chargeman, Town Supply, Charbagh, Northern Railway, Lucknow during the period alleged by the trade union. It is also alleged that the documents relating to the payments privilege passes, PTOs medical card and other documents whatsoever the claimant claims to be in her possession are fraudulent prepared and manufactured and the contents thereof are denied by the management. The casual labour/substitute are engaged against day to day casualties of regular and temporary servants as such the deceased can not be considered as Railway servant within the definition of the Railway servant as defined the Railway Establishment Code as also the present claim does not come within the preview of the I. D. Act. The claim is therefore not maintainable and deserves to be rejected with no relief.

It is alleged that the present claim is false frivolous and devoid of merit as such the claim statement is liable to be rejected with no relief.

The trade union has filed rejoinder and has alleged that there is no time limit prescribed for filing the claim under the I. D. Act, 1947. It has also submitted that the widow of the worker late Mohd. Safi moved the application for pension, DCRG and service within one month after death and her husband and she has always been vigilant. This is also alleged that right to receive pension and service on compassionate ground is a cause of action which is recurring one. It is also stated that all documents pass PTO etc. are in the safe custody of the widow. It is also alleged that the death certificate dt. 1-1-83 is genuine and has been issued by the Divisional Hospital of Northern Railway, Lucknow. It is mentioned in the rejoinder that the worker late Mohd. Safi was appointed in the regular vacancy in the scale of Rs. 199—232 and was receiving all benefits accordingly and therefore his dependent are entitled to all benefits such pension etc.

The worker has filed following photo copies of documents at the time of filing rejoinder :

1. Letter dt. 18-11-82 addressed to DMO, Lucknow regarding the fact that late Mohd. Safi S/o Abdul Rahman working in the Depot. as Casual Khalasi @ 199 and medical identity card is not yet issued due to casual staff.
2. Photo copy of Electrical Chargeman dt. 9-5-63 regarding formation of penal of Khalasi in Electric Deptt. address to late Mohd. Safi asking him to on 11-5-63 under hours in connection with his selection so that the declaration of age and birth and identity

certificate issued to him for present or before selection board on 13-5-63.

3. Photo copy of travelling passes issued to Mohd. Safi with one unmarried daughter and one son dependant wife/mother 8-10 plus 6 years dt. 7-2-82.
4. Photo copy of PTO of Mohd. Safi showing age as 29 years and age of wife is 27 and mother 56 dt. 17-8-82.
5. Photo copy of medical certificate/cause of death.
6. Photo copy of Divisional Secretary of the trade union addressed to DRM dt. 30-7-83 about the appointment of Mrs. Mehrunnishan.
7. Affidavit photo copy.

The trade union filed original documents :

1. Original document No. 1 shown above i.e. letter dated 18-1-82.
2. Original of letter Sl. No. 2 shown above.
3. Original of travelling pass shown at Sl. No. 3 above.
4. Original of PTO dt. 17-8-82 shown at Sl. No. 4 above.

The trade union has examined Mehrunnishan and the opposite party has examined. Sri D.R. Wadhvani, APO, Northern Railway, Lucknow.

Heard learned representative of the parties and perused written argument of the trade union and perused evidence on record accordingly.

Important facts which can not be disputed are as follows :

Trade union stated that Mohd. Safi died on 13-1-83 but original death certificate is withheld by the trade union.

Mehrunnishan has stated in examination in chief that her husband died in Indore Hospital Railway on 13 December however she has exhibited her ignorance about the year but about the death certificate was given to her on being questioned where is death certificate she said that the same might be lying at home. She can file the same but neither Mehrunnishan nor trade union has filed the said certificate.

It is alleged by the trade union that Mehrunnishan gave application to the employer through Chargeman on 4-3-83. It is sad that the trade union has come forward with the claim after 19 years. There is no explanation on behalf of the trade union or Mehrunnishan as to why they have not raised dispute before the competent authority.

There is no appointment letter of Late Mohd. Safi on the record nor any service record has been filed by the trade union or Mehrunnishan.

It is noteworthy that according to worker himself the time limit of preservation of record of the railways are as follows :

- | | |
|--|---|
| 1. Personal file | — 5 years after retirement and 3 years after death. |
| 2. Attendance register and mustor roll | — 10 years |
| 3. Salary bills & labour pay sheets | — 10 years |
| 4. Leave account of non gazetted | — 3 years after death |
| 5. Service record of non gazetted | — 3 years after death |
| 6. Register of leave | — 3 years other than casual labour. |
| 7. Absentee register | — 3 years |
| 8. Casual leave register and cards | — 2 years |
| 9. Receipt register | — 3 years |

The case is coming up for adjudication after 22 years of death and so called late Mohd. Safi alleged husband of Mehrunnishan. The opposite party has argued that they do not have any record after lapse so much of time that late Mohd. Safi was at all regular employee of the railways and prove this fact. He has examined competent Officer of the Railways. In absence of any record in the Railways the worker has to prove its case to substantiate that so called Mehrunnishan is wife of late Mohd. Safi. It is for the trade union to prove that Mohd. Safi was regular employee of the railways, but there is no single document on the record to prove that so called Mehrunnishan who has appeared in the witness box is wife of late Mohd. Safi and there is no record that late Mohd. Safi was regular employee of the Railways. The representative of the management vehemently argued that the document has been forged and misused for the purposes of this case by the trade union on the other hand the trade union representative has argued that late Mohd. Safi the husband of Mehrunnishan was appointed as Electric Khalasi in the year 1960. As is evident from the letter No. EL/TM/1/Staff CL/23 dt. 9-5-63. It has also been argued by the representative of the trade union that late Mohd. Safi was seriously sick and was admitted to the Divisional Hospital of the railways where he expired on 13-1-83. To substantiate the argument the representative of the worker has invited my attention on so called original letter of 9th May 1963. The said document is paper No. 13/3 on record which itself is not original document but it is true copy attested by Personal Assistant of Chief Engineer. If this document is to be taken true then it only shows that

Mohd. Safi S/o. Abdul Rehman who was a casual labour was asked to appear so that a identity certificate is issued to him for presenting it before selection board on 13-5-63. This by itself do not show that Mohd. Safi was regular employee as on 9-5-63 and at the same time with no stretch of imagination it could be shown that Late Mohd. Safi was husband of the Mehrunnishan. Although this document does not appear to be genuine one as it is not the original and true copy has not been attested by the competent person.

Another letter which has been filed before this court paper no. 13/2 showing the date of letter as 18-11-62. The photo copy of this document is on the record and i.e. paper no. 7/2. From careful perusal of the above said two documents I have no hesitation to hold that letter dt. 18-11-62 has been over written. The order of this date appears to be 1982 and not 1962 as is evident by paper no. 7/2.

The original death certificate has not been filed by the trade union. The photo copy has been filed by the trade union meaning thereby the said photo copy prepared by the original one. The inference shall be that if original, could have been filed it could not have helped the trade union in succeeding its case. There is no mention of the duration of decease in the photo copy of the relevant certificate and unless original is looked into, it is not safe to hold that this pertains to the death of late Mohd. Safi.

The privilege travelling pass paper no. 13/4 has been filed in original by the trade union this clearly shows that it pertain to casual Khalasi and not regular Khalasi. This is dt. 7-2-82. This goes to show that probably Mohd. Safi was casual Khalasi till 7-2-82.

Other two PTOs 13/7 and 13/6 also on record. There is no mention of father name on these two PTOs.

If had Mohd. Safi been in the regular employment in the railways, trade union must have filed the various pay slips issued to the regular employees but no pay slips has been filed by the trade union. Even no I. Card has been filed to substantiate the facts that Mehrunnishan was the wife of Late Mohd. Safi atleast Ration card could have been filed by trade union but even that Ration card has not been filed.

Mehrunnishan has stated that her husband was in the service of railways before her marriage took place. She has specifically stated that her husband told her that 6-7 years before her marriage, her husband was in the service. She has also stated that Mohd. Safi was of the age of 30-32 years at the time of death and she has also stated that she remained with her husband for 14-15 years. If all these facts taken into consideration then in that case Late Mohd. Safi must have entered in the service at the age of 10 years which is in itself false because the normal age of joining of service was 18 years and not 10 years. The boy of 10 years can not contract the service.

On perusal of the record I am of the opinion that trade union has failed to prove that Mehrunnishan was the wife of Late Mohd. Safi. Trade union has also failed to establish that Late Mohd. Safi was the regular employee of the railways at the time of his death. There is abnormal delay in raising dispute and therefore management of the railways is not obliged to sanction pension benefits or provide service on compassionate grounds and issue therefore decided against the workman and I also come to the conclusion that Mehrunnishan is not entitled to any relief.

SHRIKANT SHUKLA, Presiding Officer

Lucknow

13-10-2005

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 24 अक्टूबर, 2005

का.अ. 4256.— कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 नवम्बर, 2005 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध मध्य प्रदेश के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्,

“जिला- रायसेन तहसील गौहरगँज के पटवारी हलका नं०-4 के अन्तर्गत शामिल ग्राम सराकिया एवं सिमराई के अन्तर्गत शामिल क्षेत्र।”

[सं. एस-38013/61/2005-एस.एस.-1]

के.सी. जैन, निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 24th October, 2005

S.O. 4256.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st November, 2005 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapters-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Madhya Pradesh namely:-

“The area comprised within villages Sarkia and Simrai in Patwari Halka Number 4, Tehsil Gouharganj, District Raisen.”

[No. S-38013/61/2005-S.S.-I]

K. C. JAIN, Director